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**RESHAPING NATIONAL WATER POLITICS:  
THE EMERGENCE OF THE  
WATER RESOURCES DEVELOPMENT ACT OF 1986**

October 1991

IWR Policy Study 91-PS-1

**RESHAPING NATIONAL WATER POLITICS:**  
**THE EMERGENCE OF THE WATER RESOURCES DEVELOPMENT ACT OF 1986**

by

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Prepared for

U.S. Army Corps of Engineers  
Water Resources Support Center  
Institute for Water Resources

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October 1991

IWR Policy Study 91-PS-1

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## PREFACE AND ACKNOWLEDGMENTS

In March 1987, Robert K. Dawson, the Assistant Secretary of the Army, Civil Works, suggested that a short history be written on the evolution of the Water Resources Development Act of 1986. The present history, longer and more comprehensive than either the author or the sponsor first envisioned, is the result. While focusing on the legislative evolution of one act, albeit an act of potentially substantial importance to the U.S. Army Corps of Engineers, the history provides an overview of the development of federal water resources policy. It also helps define the many constituencies, political concerns, and bureaucratic activities that determine the federal role in water management. The work was done for the Army Corps of Engineers' Institute for Water Resources, which oversaw the project. However, I assume complete responsibility for the research, writing, and interpretation.

I am indebted to a number of individuals who contributed documents, reviewed earlier drafts, pointed out directions of inquiry, and generally lent much support. The names of those who patiently answered my questions in formal interviews are listed in the bibliography. Dr. Evan Vlachos of Colorado State University collaborated with me in many of these early interviews, helped collect documents, and constantly supported me with good humor and helpful commentary. Harry N. Cook, President of the National Waterways Conference, not only provided copies of his

organization's very informative and accurate newsletters, but also gave me a boxful of draft congressional bills that were part of the story of the Water Resources Development Act. Without Mr. Cook's generosity, many of the details of this history would have been lost. Don Cluff, formerly of the OMB Water Resources staff and now with the Corps' Headquarters, also allowed me to see his OMB files dealing with critical congressional-executive branch negotiations in the period 1984-1985.

Ernest Carlson and Eugene Stakhiv of the Institute for Water Resources, Arlene Dietz of the Corps of Engineers Navigation Data Center, and Michael Strachn and Bory Steinberg of the Corps' Headquarters provided very useful remarks on an earlier draft. In addition, Dr. Steinberg gave me a number of documents that helped strengthen various parts of the story. I also wish to acknowledge the support given to me by Kyle Schilling and Randy Hanchey, respectively, the present and former director of the Institute for Water Resources, and by my present and past supervisors in the Office of History. These include Drs. Paul Walker, Frank (Mickey) Schubert, and John Greenwood. Finally, thanks to Kathy Richardson for her splendid editing.

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# I

## **THE FEDERAL ROLE IN WATER RESOURCES MANAGEMENT: ADMINISTRATIVE POLITICS IN A FEDERALIST STATE**

The Water Resources Development Act of 1986, more simply called WRDA-86 (P.L. 99-662), signifies major and probably enduring shifts in the nation's attitude toward water resources planning. The legislation reflects general agreement that non-federal interests can, and should, shoulder more of the financial and management burdens, that environmental considerations are intrinsic to water resources planning, and that uneconomic projects must be weeded out. Especially in the last few decades, each of these points inspired intense debate and controversy. Their adoption in WRDA-86 resulted from a combination of political and economic factors that may not be repeated in the foreseeable future.

WRDA-86 authorized about \$16 billion in spending for water projects, of which the federal government will pay approximately \$12 billion. Nonfederal interests, such as states, port authorities, commercial navigation companies, and communities will pay the remainder. The law authorized 377 new Army Corps of Engineers water projects for construction or study. This included 43 port projects, 7 inland waterway projects, 115 flood control projects, 24 shoreline protection projects, and 61 water resources conservation and development projects (such as for fish and

wildlife mitigation). In addition, the act authorized 38 studies, 63 project modifications, and 26 other miscellaneous projects and programs.

Though the number of projects and studies authorized in WRDA-86 is significant, of potentially more importance are the policy changes that the act introduced. Together they may substantially modify approaches to financing and planning water developments that evolved over the last half century. Revisions in cost-sharing requirements, the imposition of ad valorem cargo taxes to maintain harbors, increases in fuel barge taxes to support inland lock and dam projects, and various other reforms should result in greater participation by ports, communities, waterway interests, and states in both the financing and designing of water projects. Many of these reforms are hardly revolutionary. Indeed, in putting more initiative in the hands of nonfederal interests, the act is profoundly conservative, for it restores a relationship that existed over a century ago. To understand the real importance of WRDA-86, the partnership between federal and nonfederal interests must be understood in its historical context.

## Evolution of the Federal Role in Water Resources Development

Since this nation's beginning, federal, state, and local governments have cooperated in developing water resources. In the early 19th century, private and state interests generally initiated water projects, but the federal government occasionally provided assistance through land grants, stock purchases, or direct appropriations. Another form of assistance, perhaps underestimated in its importance, was the use of Army Engineers to help survey and construct navigation projects at a time when there were few native civilian engineers. Secretary of Treasury Albert Gallatin's 1808 "Report on Roads and Canals" provided a blueprint for cooperative efforts, and a decade later Secretary of War John C. Calhoun tried to convince Congress of the necessity of federal involvement in developing the nation's waterways.<sup>1</sup> Calhoun and his congressional supporters did not agree with those who believed that the federal system involved separate and distinct levels of government. Rather, they thought of it as a partnership in which federal, state, and local authorities worked together for the common good.<sup>2</sup>

Still, federal assistance for "internal improvements" evolved slowly and haphazardly, the product of contentious congressional factions and an executive branch generally concerned with avoiding unconstitutional federal intrusions into state affairs. Although Calhoun did not persuade Congress to embrace a wholehearted

commitment to internal improvements, western congressmen constantly reminded their legislative colleagues about the importance of such projects both for commercial and military purposes. Finally, in 1824, led by the redoubtable Henry Clay of Kentucky, they had their day. On 30 April 1824, the General Survey Act became law.<sup>3</sup>

This modest act befitted an administration and Congress generally willing to support legislation that promised much but committed very little federal funding. It authorized the President to have Army Engineers survey road and canal routes (but not rivers) deemed of national importance for commercial, military, or postal service purposes. Congress provided \$30,000 to cover expenses.<sup>4</sup> The act portended a great national program of internal improvements, but the federal role was actually quite limited. The legislation was for planning only; no money was appropriated for construction. That important step occurred three weeks later.

On 24 May 1824, President Monroe signed a bill that appropriated \$75,000 to improve navigation on the Ohio and Mississippi rivers. The act empowered him to employ "any of the engineers in the public service which he may deem proper" and to purchase the "requisite water craft, machinery, implements, and force" to eliminate various obstructions.<sup>5</sup> While providing navigation channels on the Ohio and Mississippi rivers was certainly of substantial potential military value, there is little question that this act was passed in response to the urging of western politicians who were interested primarily in commercial expansion. In the next 14 years, rivers and harbors acts were

passed regularly that extended Corps of Engineers survey and construction work to hundreds of projects.

By the time the Civil War began, the federal contribution to river, harbor, and canal improvements amounted to about \$17 million in appropriated monies. Some 4.6 million acres of public lands were given for canal improvements and another 1.7 million acres for river improvements. Land grants under the 1849 and 1850 Swamp Land acts and the 1841 land grant act totaled about 73 million acres. While these grants and appropriations were significant, they represented a modest amount of aid compared with state and private-interest contributions, which by 1860 totaled well over \$185 million for canals alone.<sup>6</sup>

Many of the nation's ports and navigable waterways markedly deteriorated during the Civil War, due to both military action and wartime budgetary constraints. Therefore, after the war Congress authorized a great deal more money for rivers and harbors improvements. The federal government also took over bankrupt canal companies, and the Corps of Engineers became the custodian of many former private or state waterways. Thus began federal domination of rivers and harbors work. Between 1866 and 1882, the President signed 16 rivers and harbors acts. The 1866 act appropriated \$3.67 million, while the 1882 act appropriated five times as much. By that year, the federal government had spent over \$111 million for rivers and harbors projects.<sup>7</sup>

All this money was not appropriated without controversy. Whereas before the Civil War federal financial contributions



focused on major inland and coastal harbors and the important rivers that served as "public highways," much of the money appropriated after the Civil War aided local development with questionable national benefits. Railroad competition also raised questions about the future of waterway transportation. Partly in response to these questions, in 1872 Congress created a Select Committee on Transportation Routes to the Seaboard. Composed eventually of nine senators, the committee was headed by Senator William Windom of Minnesota and was known popularly as the Windom committee. Its 1873 report promoted waterway over railway transportation wherever waterways were "properly located."<sup>8</sup> Of more relevance here is the committee's conclusion (on a five to four vote) that the sum of local rivers and harbors projects contributed to the national interest.<sup>9</sup> Generally accepted by Congress, this conclusion justified federal largesse for waterway improvements. The result was the authorization of dozens of dubious projects. By 1907, the cumulative total for rivers and harbors appropriations was more than four times the 1882 figure; the federal role in navigation improvements continued to grow.

#### Scientific Management and Congressional Prerogatives

Only at the beginning of the 20th century was the congressional approach to rivers and harbors projects seriously questioned, most notably by Ohio Representative Theodore Burton, chairman of the Rivers and Harbors Committee. Burton opposed the

"pork barrel" legislation that had become prevalent in Congress. In one effort to eliminate marginal projects, in 1902 he successfully promoted in 1902 the establishment of a Board of Engineers for Rivers and Harbors within the Corps of Engineers to review the feasibility of rivers and harbors projects recommended by lower levels of the Corps. However, he was convinced that cost sharing, not governmental review, would be the best way to ensure the merit of projects; he wished to have nonfederal interests assume as much of the financial burden as possible. On a case-by-case basis, some local financial contribution for rivers and harbors projects would be levied. The Corps of Engineers generally supported Burton's initiatives to ensure the economic viability of projects, but the Corps' relationship with Burton was complex. His general skepticism about the value of inland waterway improvements was clearly contrary to the Corps' long-held belief in the paramount importance of inland and coastal navigation.<sup>10</sup>

Thanks to Burton's endeavors, dozens of rivers and harbors projects requiring local contributions were authorized in the first two decades of the 20th century. Nevertheless, no standard procedure was developed to determine which projects should entail local contributions. A small step was taken in that direction in 1920, when Congress inserted a clause in the annual appropriations bill requiring Army Engineers to report the local and general benefits of a project and to recommend whether local cooperation should be required.<sup>11</sup> In other words, Congress wanted the engineers to determine the issue, even though such economic

assessments necessarily involve political judgment. Five years later, Congress discontinued the policy of local cooperation for small navigation projects and declared a new policy: whenever local interests advance funds for rivers and harbors work, such may be accepted and expended by the Secretary of War "in his discretion." Regardless, the Secretary was "hereby authorized and directed to repay without interest . . . the moneys so contributed and expended."<sup>12</sup> By this time, a new procedure for appropriating rivers and harbors funds had been established. Rather than being considered separately, the appropriations were included in the Army appropriations bills. Once the appropriation was approved, the Secretary of War and the Chief of Engineers apportioned the funds as they thought best. Under this procedure, which continued until the New Deal, annual appropriations for rivers and harbors work ranged from \$40 million to \$60 million.

The use of cost sharing to eliminate questionable projects from authorization bills generally failed. Instead of causing congressmen to ascertain the financial capability of their constituents prior to supporting a project, the local cooperation requirement actually encouraged congressmen to approve projects of marginal worth. Politically, they could hardly lose. By voting for the projects, they showed themselves sensitive to constituent needs and desirous of having their district or state share in the reallocation of the federal budget. They could leave it to market forces to determine whether the project was actually constructed.

Although local communities and levee districts continued to

shoulder much of the burden for flood control, the federal role in navigation improvements continued to grow in the first decades of the 20th century.<sup>13</sup> What was disputed was the proper role of Congress and the executive branch in discharging the federal responsibility. Burton's reform measures were not simply an attempt to rationalize rivers and harbors improvements, but to ensure that legislative powers, sensibly constructed, remained with Congress. Consequently, he opposed some of the conservationist proposals of the Theodore Roosevelt administration, which usually involved additional executive branch involvement. These proposals focused on the institutional machinery required to administer multipurpose plans: coordinated river basin programs to address equitably and efficiently a wide variety of needs, including navigation, flood control, irrigation, water supply, and hydropower. Management was to be rational and scientific. To most conservationists, this meant the appointment of a commission of experts to design projects in a professional, apolitical fashion. Many recommendations called for the commission to be in the executive branch or subject to presidential appointment. While supporting multipurpose planning, Burton considered outside or executive branch commissions to be usurpations of Congressional authority and energetically opposed them.<sup>14</sup> The problem was to reappear periodically for the next 50 years: how to reconcile rational planning--scientific management--at the federal level with the legislative prerogatives that Congress carefully guards.

Senator Francis G. Newlands of Nevada proposed just the kind

of commission Burton feared, with powers to authorize public works and to provide funds. Not surprisingly, the majority of Congress shared Burton's opposition to this idea. However, Burton supported a substitute bill specifying that the commission would act only "as authorized by Congress." The bill won overwhelmingly in the House, but Newlands' colleagues killed it in the Senate in 1908.<sup>15</sup> The conflict over institutional arrangements continued. The issue was not federal domination; neither Burton and his allies nor Theodore Roosevelt and the conservation community proposed greater local control of projects, but only, in Burton's case, greater financial involvement. The controversy focused on proper administration and policy-making within the federal establishment--whether Congress or the executive branch should have the final word. This controversy endured into the post-World War II era and was shaped partly by external factors including war and the Depression.

The 1917 Rivers and Harbors Act actually authorized a waterways commission composed of seven presidential appointees. But President Woodrow Wilson never made any appointments, and Newlands' death in 1919 eliminated the act's major champion. In 1920, Congress repealed the waterways commission and instead established a Federal Power Commission. Rational, apolitical, multipurpose management appeared doomed. The National Rivers and Harbors Congress (founded in 1902), the National Reclamation Association (founded in 1933), and federal power advocates occasionally appealed to multipurpose concepts, but generally only

to provide justification for navigation, irrigation, and public power projects, respectively. Certainly, this was not the scientific planning envisioned by multipurpose advocates, but rather log-rolling politics on a grander scale than ever, only garnished with the rhetoric of scientific planning.

Although multipurpose planning was at the mercy of special-interest lobbying, Congress fitfully embraced some of its ideas. Coordinated approaches to river development were most successful when they answered interstate economic requirements. These requirements became pressing at the beginning of the 20th century as a result of two unrelated developments: agricultural development in the West and the growing demand for electrical energy throughout the country. The first development called for institutional, technological, and legal arrangements to allocate scarce water supplies throughout the West.<sup>16</sup> The second called for the harnessing of the nation's rivers to produce hydropower. The two developments coalesced in 1922, when the states in the Colorado River basin (except Arizona, which joined in 1929) signed the Colorado River Compact. Congress ratified the compact in December 1928 and also authorized the building of the first great multipurpose dam in the Black Canyon of the Colorado: Boulder Dam.<sup>17</sup> This initiated the era of large multipurpose dams and of regional compacts designed to make efficient use of the nation's rivers. Generally, these regional arrangements mirrored hardheaded political realities more than farsighted planning. When Boulder Dam was authorized, few thought in terms of basin-wide development

of the Colorado or anticipated a string of dams stretching from the Rocky Mountains nearly to the Mexican border. In their dependence on the Bureau of Reclamation or the Corps of Engineers to build the projects (and hence on Congress for authorizations and appropriations), state officials also confirmed the continuing federal domination of water resources programs.

Another manifestation of multipurpose planning occurred in 1925, largely at the urging of hydropower interests. That year Congress authorized the Corps of Engineers and the Federal Power Commission to prepare cost estimates for surveys of navigable streams and tributaries "whereon power development appears feasible and practicable." The aim was to develop plans to improve stream navigation "in combination with the most efficient development of the potential water power, the control of floods, and the needs of irrigation."<sup>18</sup> The Corps responded with a recommendation for 24 surveys at an estimated cost of \$7.3 million. In 1927 Congress appropriated the necessary funds, whereupon the Corps launched a series of comprehensive river surveys. The resulting reports became known as the 308 reports after the House Document in which the survey estimates had first appeared. They became basic planning documents for many of the multipurpose projects undertaken by the federal government just before and after World War II and still are invaluable aids for water resources developers. In 1935, Congress authorized the Corps to supplement the "308" reports with studies "to take into account important changes in economic factors as they occur and additional stream-flow records or other factual

data."<sup>19</sup> This authority charged the Corps with a broad responsibility to undertake continuing river basin planning, with the emphasis on navigation and flood control.

Flood control was a relatively new mission for the Corps. Until 1917, all federal rivers and harbors projects had been justified, at least in part, as aids to navigation, a federal responsibility under the Commerce clause of the Constitution. However, in 1917 Congress passed the first flood control act, which authorized flood control expenditures of \$45 million for the Mississippi River and \$5.6 million for the Sacramento. Also, the act stipulated that local interests pay at least one-third the cost of construction and repair of levees and provide rights-of-way to the federal government. However, in the aftermath of a disastrous flood in 1927 along the lower Mississippi, Congress passed and President Calvin Coolidge signed the 1928 Flood Control Act, which authorized a new flood control plan for the lower Mississippi. In deference to the economic conservatism of President Coolidge, Congress reaffirmed the general principle of cost sharing. However, in light of repeated flood disasters and substantial financial burdens borne by lower Mississippi interests, Congress released residents there from all local cooperation agreements save those to maintain certain flood control works after completion and to provide rights-of-way.<sup>20</sup>

In the first quarter of the 20th century, expanding federal navigation and flood control responsibilities required increased cooperative efforts among federal, state, and local



governments. While such cooperation was possible at the project level, the growing number of constituent groups and political leaders involved in making decisions threatened hopes of a rational, nationwide approach to water resources development. Moreover, a ready pool of nonfederal engineers and a mushrooming federal public works budget added weight to the argument that states should rely more on their own resources. In short, financial, political, and professional arguments undermined support for centralized planning and scientific management.

Had there been widespread support for rational, nationwide water resources development, the Corps could possibly have assumed a role similar to that of the Office of Public Roads (OPR). It could have provided technical information, developed construction and engineering standards for water projects, and provided experts to help states and localities. The Corps' reputation would have depended more on its expertise rather than on projects completed.<sup>21</sup> However, unlike OPR, the Corps did not enjoy either professional or public consensus about its appropriate role. Moreover, at the turn of the century, public and private civil engineers increasingly questioned the Corps' competence. Some skepticism may have stemmed from professional jealousy, but legitimate professional differences existed.<sup>22</sup> Also, new constituencies had proven effective lobbyists in Washington, and they often pleaded for changes in Corps water project plans to benefit local interests. Certainly, far more than engineering questions were involved; the value placed on farmland or the cost

of human life are not easily resolved at the drafting table. Under these circumstances, scientific management was moot. Political, not scientific, criteria would guide the allocation of federal money.<sup>23</sup>

### Federal Domination and Regional Planning

President Franklin Delano Roosevelt launched a major challenge to congressional powers in the water resources field during the New Deal. Roosevelt was an advocate of regional planning. He also favored some sort of planning guidance at the national level. He organized a National Resources Board--its name underwent several later changes--to coordinate the development of river basin plans. However, few of these plans significantly affected legislation, and Congress reasserted its authority in the 1936 Flood Control Act, a momentous law in the history of the nation's water resources development. The law recognized that flood control was a "proper activity of the Federal Government in cooperation with States, their political subdivisions, and localities thereof." It also stipulated that the federal government would not participate in any flood control project if the benefits did not exceed the costs. This policy marked the real beginning of comprehensive federal flood control work. The projects that the act and subsequent amendments authorized have literally changed the geography of the United States and have caused or contributed to substantial demographic shifts in the nation.

Three factors contributed to the passage of the 1936 legislation: (1) the urging by some politicians that the federal government increase its assistance to flood-prone communities, (2) the necessity for work relief during the Great Depression, and (3) the suffering and devastation caused by the spring floods of 1936. Indeed, the August 1935 national flood control bill passed by the House of Representatives, which would have appropriated some \$400 million for a large number of flood control projects, was considered an "emergency measure" to provide work relief as well as to authorize construction projects. It did not pass in the Senate that year because of the large number of projects that some senators thought questionable. Instead, it was recommitted to the Senate Commerce Committee.<sup>24</sup>

Senator Royal Copeland, the senior senator from New York and chairman of the Senate Commerce Committee, became the bill's champion in the Senate. Working with Corps of Engineers officials, he produced a new draft of the legislation in 1936 that provided for large amounts of work. Perhaps, the most sensitive question dealt with finances. Should the federal government assume the entire cost of flood control projects, as it had for the lower Mississippi River under the 1928 Flood Control Act? In the end, the congressmen agreed that local interests should provide lands, easements, and rights-of-way and should hold the United States free from damages due to construction. Later, another stipulation was added: local interests should maintain and operate all the works after project completion in accordance with regulations prescribed

by the Secretary of War. The three provisions--to provide lands, easements, and rights-of-way; to stand the cost of damages; and to maintain and operate the works--became known as the "abc" requirements.

By the time the Senate considered the flood control bill, a series of disastrous floods in the Northeast had intensified interest in the legislation. In March 1936, rain-swollen rivers had spilled over their banks from Maine to Maryland. These floods virtually ensured the passage of some sort of relief legislation. They also considerably increased the number of people hoping for full federal financing, but the local contribution requirement was absolutely essential to the bill's passage. The Senate finally approved the bill on 21 May, and the House passed it about three weeks later. The Water Resources Committee of the National Resources Committee complained that some projects in the bill were questionable, the bill abused sound conservation principles, and, in general, the legislation ignored multipurpose river development. The President no doubt shared these reservations. He had, for instance, endorsed the multipurpose planning mandated in the 1933 act that created the Tennessee Valley Authority. Nevertheless, he signed the bill into law on 22 June. Presumably, he hoped that he might be able to force some changes later, including obtaining a role for the Water Resources Committee in the selection of projects and the coordination of work. If so, his optimism proved ill founded. The act authorized the expenditure of \$320 million for over 200 projects and a number of

examinations and surveys. Most of the work was to be done by the Army Corps of Engineers.

The 1936 act established flood control as a legitimate nationwide activity for the federal government, and it confirmed congressional control of the federal water resources program. But its immediate effect was to provoke protests from those who justifiably feared it threatened multipurpose planning and federal control of water development. The act, "ill-conceived and wretchedly drafted" according to one historian,<sup>25</sup> left many questions unanswered. Federal power interests believed that the abc requirements would preclude federal power development, especially if states were obliged both to operate and maintain flood control dams and to pay for additional construction costs for hydropower development. Clearly, such expenditures were beyond most state budgets. Confusing language in the act did not help matters. Section 3 stated that nonfederal interests "provide" rather than "convey" land to the federal government. The wording raised questions as to whether the United States actually owned title to the flood control dams, levees, and reservoirs.<sup>26</sup> In short, the nation's future power policy appeared to be left in the states' hands. The 1938 Flood Control Act was meant to remedy this situation. It authorized 100 percent federal financing of flood control reservoirs and channel improvements. Although the 1941 Flood Control Act made channel improvements again subject to the abc requirements, full federal responsibility for flood control reservoirs remained intact.

Had the abc requirements of the 1936 act remained in place, the nonfederal share for many flood control projects would likely have been similar to that specified by WRDA-86, which requires a 25 percent minimum local contribution. Both the 1936 and 1986 acts provided that local interests contribute lands, easements, and rights-of-way (WRDA-86 also requires that nonfederal interests provide dredged material disposal areas and necessary relocations). Both acts imposed a ceiling of 50 percent on local contributions toward total costs for flood control projects. However, the 1938 act put the future of water resources development directly in the lap of Congress.

The 1938 Flood Control Act did more than initiate a policy of full federal responsibility for flood control reservoirs. By providing--some state governors would have said "imposing"--a federal answer to the question of how best to develop hydropower, it effectively mooted populist demands for regional power authorities, "little TVAs" in the words of Senator George Norris of Nebraska.<sup>27</sup> Both the 1936 and 1938 Flood Control Acts affirmed the general principle that flood control--like navigation--provided widespread benefits to the public and therefore should be funded from the federal treasury.<sup>28</sup> Such a principle reflected congressional intent to retain control of the planning and funding of water resources. Particularly in the face of the Great Depression, such an approach was appealing. In effect, Congress decided that the redistribution of public funds was in itself a contribution toward national economic development. There was no

Gallatin Plan or Windom committee report, and no report from the President's own National Resources Planning Board received serious congressional attention. Scientific multipurpose management enticed few politicians; policy was determined by the pocketbook.

In the words of one select committee on government organization, the flood control acts became a "legislative catch-all for all types of activities."<sup>29</sup> Water supply, drainage, irrigation, power generation, and navigation were all authorized under these acts, as subsequently amended. Much of this legislative activity was simply a convenience. Yet, the net effect was to make Congress the nation's water resources planner. Congress recognized this fact in the 1944 Flood Control Act and concurrently attempted to allay state concerns about the growing federal presence in the water resources field. It declared its policy was to "recognize the interests and rights of the States in determining the development of the watersheds within their borders and likewise their interests and rights in water utilization and control [and] . . . to facilitate the consideration of projects on a basis of comprehensive and coordinated development."<sup>30</sup> States were to be consulted and given an opportunity to review proposals. Still, congressional intentions were unclear. There was no express disavowal of earlier support of single-purpose projects, such as were authorized in the 1936 Flood Control Act. Indeed, a broad interpretation of the 1944 language could justify the authorization of marginal flood control projects that scarcely served flood

control but produced other benefits, such as hydropower or water supply.<sup>31</sup>

Critics not only charged that federal water resources agencies lacked commitment to multipurpose planning, but also that the agencies coordinated their plans poorly. Roosevelt-Truman era attempts to establish regional authorities for the Missouri and Columbia river basins died in Congress, while efforts to force better federal coordination through legislation achieved only modest success. Plans and policies continued to overlap, impeding any effort to develop integrated river basin plans. A Federal Interagency River Basin Committee, formed in 1943 to coordinate responsibilities, spawned regional interagency committees that included both federal and state representatives. These committees produced plans and policies, but were unsuccessful in their efforts to develop truly coordinated procedures, largely because there was no agreement on the goals of river basin planning. One subcommittee produced a report on Proposed Practices for Economic Analysis of River Basin Projects (1950) that provided nonbinding guidance to agencies on developing economic justification of water projects. The report, commonly called the "Green Book," was reissued with slight revisions in 1958. Still, coordination among agencies appeared haphazard at best, subject principally to congressional whim.<sup>32</sup>

Mainly in response to the enormous expansion of the executive branch during the Roosevelt administration, in 1947 Congress authorized the creation of the Commission on the Organization of



the Executive Branch of the Government, popularly known as the first Hoover Commission because it was the first of two headed by former President Herbert Hoover. Both President Harry Truman and Congress appointed members to the commission.<sup>33</sup> While the commission effected a number of major organizational changes in the executive branch, its influence in the water resources area was less tangible. It generated a valuable exchange of views and an impressive number of reports, but could not bring about significant changes. Members proposed the creation of drainage area commissions and a nonpartisan review board on water projects in the Executive Office of the President. An even more controversial recommendation was to transfer the civil works functions of the Corps of Engineers to the Department of the Interior. This initiative elicited intensive opposition from Corps supporters in Congress and went nowhere.<sup>34</sup> However, President Truman's own Water Resources Policy Commission, formed in 1950, seconded the commission's call for consolidation in water resources development and supported the establishment of river basin commissions.<sup>35</sup>

In 1953, the first year of the Eisenhower administration, the second Hoover Commission on the Organization of the Executive Branch of the Government was organized. Although its powers were broader than those of the first Hoover Commission, its procedures and organizational framework were similar. It also shared the earlier commission's disenchantment with existing water policies and administration. The second Hoover Commission severely criticized Congress and the executive branch for failing to develop

a comprehensive national water resources policy and once more recommended that water resources development be "generally undertaken by drainage areas--locally and regionally."<sup>36</sup> Perhaps more accurately gauging the political climate, commission members dropped their predecessors' proposals to divest the Corps of its civil works functions and to create a nonpartisan review board in the Executive Office of the President. Instead, they recommended a cabinet level Federal Water Resources Board to oversee policy and to establish river basin planning (not administrative) boards that would include federal, state, and local interests.<sup>37</sup>

Another proposal that proved politically unpalatable was to charge user fees to carriers on the nation's commercial inland waterways. The intended purpose was to offset federal operation and maintenance (O&M) expenses. This recommendation, which sought to reverse the traditional policy of free navigation on the rivers of the United States, aroused bitter opposition from waterway users. Both the Corps of Engineers and a substantial number of congressmen likewise opposed the recommendation. Neither Congress nor the Corps was ready for user fees.<sup>38</sup> In the end, the second Hoover Commission had no more success than the first commission in directly changing federal water policy, although it contributed to a discussion that gained momentum both publicly and privately.

#### Partnership and Its Permutations

Some of the ideas of the two Hoover Commissions undoubtedly influenced the water resources policies of President Dwight D.

Eisenhower. Eisenhower stressed the need for "partnership," but with the stress on cost and operational efficiencies, not on scientific management. In his 1953 State of the Union Address, Eisenhower said, "The best natural resources program will not result from exclusive dependence on the Federal bureaucracy. It will involve a partnership of the States and local communities, private citizens and the Federal Government, all working together."<sup>39</sup> Undersecretary of the Interior Ralph A. Tudor (a former Army Engineer colonel and the builder of the Oakland Bay Bridge in San Francisco) felt strongly that "there has been a growing tendency to do away with local responsibility and local rights . . . I strongly believe that the local interests not only want but should have a strong part to play in determining how their part of the Nation should be developed."<sup>40</sup>

The Eisenhower administration's concept of partnership aimed to increase local responsibility, decrease strains on the federal budget, and eliminate uneconomic or otherwise undesirable projects. There are obvious similarities to President Ronald Reagan's policies 30 years later. Eisenhower particularly insisted on limiting the federal role in water power development. Support for small watershed projects was to be confined to technical, financial, and educational assistance. On the other hand, the federal government had to be prepared to assume major design and construction responsibilities whenever large multipurpose projects were justified but beyond the capability of nonfederal interests.<sup>41</sup>

Eisenhower appointed an Advisory Committee on Water Resources Policy whose permanent members were the Secretaries of Defense, Interior, and Agriculture. The committee urged that beneficiaries pay for projects in proportion to benefits. Harkening back to Hoover Committee recommendations, it also proposed the establishment of both a board of review for water projects in the Executive Office of the President and an advisory interagency committee on water resources.<sup>42</sup> Predictably, Congress was suspicious of both. Less controversial was the committee's encouragement of river basin agencies and interstate compacts.<sup>43</sup> However, Eisenhower tried to achieve his goals mainly through strict control of the federal budget (he vetoed three water bills, although one veto was overridden) and by establishing better federal coordination both in Washington and in regional river basin committees.<sup>44</sup> In both the Truman and Eisenhower administrations, Congress rejected presidential leadership, always fearing executive branch usurpation of legislative powers. The atmosphere was combative.

While the notion of partnership was implicit in many of the executive branch proposals of the 1950s, the most important step toward its realization came with the establishment of the Senate Select Committee on National Water Resources in 1959. Chaired by Senator Robert S. Kerr of Oklahoma, the committee held hearings throughout the country on a variety of subjects relating to water development. Its 1961 report stressed greater cooperation between the federal and state governments, more scientific research on

water, biennial assessment of water-supply demands, and greater promotion of water-development efficiencies, including nonstructural measures.<sup>45</sup> The report led to a number of developments in the water resources field. Senate Document 97 (1962) contained new interagency standards for water project planning. Drafted by the Secretaries of Interior; Agriculture; Army; and Health, Education, and Welfare at the request of President Kennedy, the document shows the influence of the Kerr committee report. The new standards required that all views be heard--federal, state, and local--prior to formation of project proposals. Multipurpose projects were to receive priority, and all projects were to be formulated in light of overall river basin plans. Recreation and water quality were to be considered as project benefits in the same way as navigation, hydropower, flood control, irrigation, water supply, watershed protection, and fish and wildlife enhancement.<sup>46</sup>

Consciously mimicking the language of the 1887 Hatch Act that established agricultural experimentation stations, Senator Clinton Anderson of New Mexico drafted a bill to authorize funds to set up water resources research institutes at state land grant universities.<sup>47</sup> The bill was enacted as the Water Resources Research Act of 1964 (P.L. 88-379). Anderson also helped draft the 1965 Water Resources Planning Act (P.L. 89-80), which was passed after the senator died. Building on the Kerr committee report, Anderson recommended passage of authorization to appropriate \$5 million per year for ten years to each of the states to prepare

water development programs. This recommendation was eventually incorporated into Title III of the planning act.<sup>48</sup>

Meanwhile, the Kennedy administration drafted its own planning legislation. Officials in the Secretary of Interior's office lobbied for the creation of a new Department of Natural Resources, but the White House opposed this idea under the influence of such kitchen cabinet advisors as Richard Neustadt. The Harvard professor had argued in his book Presidential Power that competition among agencies strengthens the decision-making power of the President.<sup>49</sup> Following his reasoning, it made sense to keep responsibilities for water resources work divided among several agencies. While rejecting a new Department of Natural Resources, the administration did draft legislation to establish a water resources board. The administration bill changed the name to Water Resources Council; Title I of the 1965 planning act authorized its creation. The council was to be composed of federal agency representatives who would help establish river basin commissions, consult with federal and non-federal entities, develop standards and procedures for the operation of the commissions, and review state water and related land resources programs. Upon the request of the council, Title II of the act authorized the President to establish river basin commissions composed of both federal and state representatives. One of the principal duties of such commissions was to "prepare and keep up to date, to the extent practicable, a comprehensive, coordinated, joint plan for Federal, State, interstate, local and nongovernmental development of water

and related resources."<sup>50</sup> This title directly resulted from some of the recommendations that had come from the Kerr committee and earlier executive branch reorganization studies in the Eisenhower and Truman periods.<sup>51</sup>

Federal grants to the states, the creation of river basin commissions, and the establishment of the Water Resources Council could all be construed as attempts to decentralize water policy. Such an interpretation, however, would be seriously misleading. The 1965 Water Resources Planning Act did not transfer power. It encouraged states to participate in the development of river basin plans, but final authority remained with Congress and the executive branch. Federal domination of water policy continued. None of those involved in drafting the legislation had envisioned anything different. The Kerr committee report had recommended that plans, once coordinated among federal, state, and local agencies, be submitted by the executive branch to Congress for authorization.<sup>52</sup> The 1965 legislation remained true to this formulation. Moreover, the Water Resources Council was an exclusively federal entity, and the river basin commissions were often dominated by representatives of federal water agencies. Most telling, the commissions were only planning agencies; they had no regulatory or enforcement authority.<sup>53</sup>

The Water Resources Planning Act of 1965 confirmed a basic truth about natural resources planning in the United States since the Civil War: the federal government is the moving force and any attempt to decentralize federal power--especially legislative

power--has met institutionalized, strongly entrenched, opposition.<sup>54</sup> Indeed, the Supreme Court in the 1963 Arizona v. California case affirmed that Congress even had the authority to distribute water from a federally constructed reservoir without abiding by state laws.<sup>55</sup> Thus, both judicial decisions and legislative statutes made clear the overriding federal interest in and authority related to navigation, flood control, power, and water allocation.<sup>56</sup> Whether passage of WRDA-86 will modify or reverse this historical pattern remains to be seen.

The water research and planning acts passed in 1965 had unintended consequences. Congress had seen fit to increase state professional capabilities and, in so doing, unwittingly strengthened the hand of opponents of federal domination.<sup>57</sup> By providing funds and encouraging greater attention to regional research and planning in water resources, the acts fostered the growth of expertise and expectations at the state level. Many who benefited from this federal assistance were among those who sought greater nonfederal participation in water resources planning in the 1980s. Design and construction management, once thought a burden better shouldered by large federal agencies, began appealing to states with sufficient expertise and funding. And while state officials still desired federal money, the many demands on the federal budget limited financial assistance. This created a situation in which sharing the funding and management burdens with nonfederal interests made good financial and political sense. The rhetoric of partnership could become reality.



### Cost Sharing

In the political climate of the late 1960s, which had become more cautious and skeptical about federal public works projects, cost sharing was a popular topic of conversation. However, more enthusiasm was evident in the halls of Congress than in statehouses and city halls. The change is noteworthy: in the early 19th century, states and localities had petitioned the federal government for financial assistance. In the 1960s, when federal funding of large reservoir projects peaked, it was the federal government that sought financial relief from nonfederal interests. The beggar's hat had changed hands.

The Water Resources Council started a study of cost sharing in 1968 for major flood control reservoirs as well as for local protection works. The study continued into the next decade, but without resolution.<sup>58</sup> Meanwhile, water transfer problems in the Colorado River basin convinced the Bureau of the Budget of the need for a general examination of nationwide water resources issues and policies. Congress responded favorably in 1968 by authorizing a National Water Commission. The seven-member commission of experts received support from an outstanding professional staff as well as from outside consultants. The commission's final report, published in 1973, recommended that "Insofar as is practicable and administratively feasible, the identifiable beneficiaries of project services should bear appropriate shares of development and operating costs through systems of pricing or user charges. . .

.<sup>59</sup> Such a policy, the commission believed, would "provide incentives for the selection of efficient projects that will lead to progress toward water resources policies that are in harmony with other national programs and policies."<sup>60</sup> The recommendations stressed philosophy and general criteria with the clear implication that nonfederal interests pay the cost of direct benefits. The commission further observed that nonfederal water projects also serve the national interest. Therefore, to provide financial incentives to produce the optimum design and operation, federal participation in such projects should be encouraged. The same cost-sharing policies should be used that apply to federal projects.<sup>61</sup>

The National Water Commission recommended that Corps of Engineers' capabilities be reserved for major projects. Small projects, essentially local in nature, should be left to local interests. The commission correctly predicted that the number of Corps major projects would "taper off," but placed too great a faith in the ability of river basin commissions to take over design and construction responsibilities formerly exercised by the Army Engineers.<sup>62</sup> In reality, the Corps' construction program declined because of budgetary constraints, environmental opposition, and the completion of many projects, not because of competition from river basin commissions. These commissions were simply not able to match the Corps' design and construction expertise.

In 1973, after extensive review by federal water agencies and Presidential approval, the Water Resources Council published its

Principles and Standards for Planning Water and Related Land Resources, pursuant to the 1965 Water Resources Planning Act. This document provided the basic framework for water resources planning for the next decade. It mandated that plans address two principal objectives: national economic development and environmental quality. The Principles and Standards or P&S defined three levels of studies: framework studies that study the water needs of a region on a broad basis, river basin plans to resolve complex problems identified in the framework studies, and implementation studies or feasibility reports.<sup>63</sup> However, one area in which the P&S was noticeably silent was cost sharing. The document simply noted that "current reimbursement and cost-sharing policies are being reviewed in their entirety. . . . Until this comprehensive review is completed and approved, all current reimbursement and cost-sharing policies are considered to be in full force and effect."<sup>64</sup>

Congress was not entirely pleased with the P&S. In the 1970 Flood Control Act (P.L. 91-611), Congress had specified in section 209 that the objectives of federal water resources projects should be to enhance (1) regional economic development, (2) quality of the total environment, (3) well being of the people of the United States, and (4) national economic development. Some members of Congress thought that the P&S insufficiently addressed these points, especially regional economic development.<sup>65</sup> Consequently, section 80c of the 1974 Water Resources Development Act (P.L. 93-251) reasserted these objectives and directed the Water

Resources Council to make another "full and complete investigation and study of principles and standards." This study was also to address questions dealing with the interest-rate formula and cost sharing.

The council published this second study in November 1975. The study compared cost-sharing arrangements in various federal water agencies and noted numerous inconsistencies. Not only did the reimbursement amounts for similar federal projects vary, but so did the repayment schedules, interest payments, and the division of O&M responsibilities. In a refreshingly candid statement, the authors admitted to "great difficulties in unraveling and understanding existing cost-sharing practices." They suggested that the problem could "best be described as an effort to dress the corseted and shy Victorian maiden in a bikini."<sup>66</sup> The study delineated various options for cost sharing but left final decisions to Congress.

Leaving cost sharing in congressional hands was just what water resources organizations wanted. In the legislature, lobbyists could generally better protect client interests than if left to the mercy of "faceless bureaucrats." As water projects became increasingly controversial, lobbying intensified. Navigation and flood control interests were soon competing for federal dollars. Their umbrella lobbying organization, the Rivers and Harbors Congress, reconstituted itself as the Water Resources Congress at the beginning of the 1970s. Publicly, at least, the new name proclaimed a commitment to conservation and stewardship and not just development. This cosmetic change did not mask the

strains within the water resources community. By the mid-1970s the navigation and flood control interests were going their separate ways on cost sharing. Even the navigation community was split. Some barge interests opposed all user fees, while owners were inclined to accept what they believed was inevitable. Several port authorities objected to any port or harbor dues to offset operation and maintenance. Others agreed to the concept, but argued over the manner of assessment. For some, cost sharing was a challenge; for others, it was a shotgun wedding. The result of this acrimony was a decline in membership and influence of the Water Resources Congress and the growth of smaller, more focused, single purpose lobbying organizations.<sup>67</sup>

These new organizations wanted not only continued federal support but the same leverage once enjoyed by the national Rivers and Harbors Congress and the National Reclamation Association. But that age had passed. No longer could they count on such champions as Senator Kerr, Representative Wayne Aspinall of Colorado, or Senator Allen Ellender of Louisiana. Although some politicians remained committed to water resources development, more senators and representatives came to doubt the wisdom of both the projects and the level of federal funding required for the water resources program. They clearly were encouraged in this thinking by surprisingly effective environmental lobbying organizations, many of them recently organized.<sup>68</sup> The idea of passing more of the federal financial burden to states and communities attracted an increasing number of congressmen.

### Changing Values and Expectations

Congress, not the bureaucracy or outside experts, remained the great arbitrator. After 150 years of water resources development, and a hodgepodge of statutes and executive orders, the United States still had no institutional framework for developing nationwide, comprehensive water resource programs. Perhaps such institutional arrangements are impossible given the scale of operation and the physical area that are often involved. Especially difficult to resolve are issues that focus on the intangible and incommensurate values of public works projects. Different communities assign different weights to factors affecting social well being and the environment. The marketplace cannot readily translate such factors into monetary terms, nor can they be easily empirically verified. Consequently, they must be addressed in the political forum--the Congress of the United States.

Clearly, the Water Resources Council never had the influence envisioned by early 20th century reformers or New Deal planners. It had only limited capability to arbitrate disputes over, for example, the appropriate socio-economic objectives or specific purposes of a project.<sup>69</sup> Also, many of the largest water projects had either been built or were well on their way to completion, thereby undermining the Council's desire to insure rational water resources management throughout a watershed area. Finally, an increasingly urbanized, educated society was not interested so much

in irrigation, navigation, or even flood control as in recreation, environmental preservation, and water quality. Passage of the Wilderness Act (1964), the Wild and Scenic Rivers Act (1968), and the National Environmental Policy Act (1969) testified to the strength of these new interests. Environmental and recreational concerns contributed to rising opposition to water projects, and many engineering plans were put back on the shelf.

The Corps of Engineers, the nation's largest water resources developer, bore the brunt of the criticism from opponents of water projects. Before the beginning of the environmental era, opposition generally centered around real estate issues created by the construction of large flood control dams. Corps reservoirs occasionally inundated prime agricultural land or scenic areas. In the early 1950s, for instance, Kansas farmers loudly protested the acquisition of fertile farmland in order to construct Tuttle Creek Dam. A decade later, real estate and environmental issues began merging, as exemplified by the Rampart Dam project in Alaska, the Cross-Florida Barge Canal, and Oakley Dam in Illinois. Critics described the Corps of Engineers as arrogant, elitist, and extravagant. Even supporters perceived miscalculation and inflexibility within the Corps. The Secretary of the Army's Civil Works Study Board published a report in 1966 that acknowledged the problem. It concluded that "the system has offered too little opportunity and incentive for planners to assume a comprehensive, long-range viewpoint and an inquiring attitude that would lead to consideration of all factors that might be pertinent to an optimum

solution."<sup>70</sup> The public meetings that have contributed to Corps planning in the last two decades may have addressed this problem, but have not eliminated the public's concern that Corps projects be both cost effective and environmentally and socially sensitive.

The public was not just suspicious about the Corps, but about government in general. According to one survey, the number of people who believed that "government is run by people who don't know what they're doing" climbed from 27 percent in the early 1960s to 63 percent in 1980.<sup>71</sup> The public increasingly believed that the federal bureaucracy was bloated and inefficient, that ill-conceived government spending contributed to the nation's economic decline, that too much was being done at the national level, and, in the words of President Reagan, that government was "taxing away the American way of life."<sup>72</sup> By 1980 four of five people thought the government wasted money, up from less than 50 percent 20 years before.<sup>73</sup>

Aside from environmental considerations and lack of confidence in government, concern over the federal budget also generated opposition to water projects. Beginning with the post-World War II construction boom, an increasing number of people questioned the level of federal funding for water resources projects. There were several reasons for this. First, while an immature industrial and agricultural base in the 19th century could not fund major water projects, by the mid-20th century many cities and states had the



capability to share the financial burden. Second, operating and maintaining water projects had become at least as important as building them, and nonfederal interests could often make important contributions in this regard. Third, an increasing number of projects were for local benefit, in which case it was entirely appropriate that the local beneficiaries pay for more of the cost.<sup>74</sup> Finally, and most important, other demands on the federal budget necessitated searching for ways to reduce federal expenditures. Discretionary programs, such as water resources, became candidates for fiscal restraint at a time of demands for increased expenditures for the military (especially during the Vietnam conflict) and legislative reluctance to tamper with entitlement programs.

However, the need to rehabilitate or replace an aging water resources infrastructure was undeniable by the mid-1970s. The nation had approximately 3,000 unsafe dams, and a number of locks on the Ohio, upper Mississippi, and Columbia rivers were found to be too old (about 40 years), too deteriorated, and too small to serve modern shipping. The waterway problems appeared particularly urgent in light of the energy crisis. Both new locks and deeper ports were needed to handle the transportation and exportation of coal and other energy supplies.<sup>75</sup> With increasing demands on the federal budget and growing doubts about the wisdom of some expensive water projects, a way had to be found to eliminate

questionable projects while responding to legitimate water resources needs equitably and efficiently. The situation required innovation and a willingness to challenge and, where necessary, to change old ways of doing business.

## NOTES

1. Daniel J. Elazar, "Federal-State Collaboration in the Nineteenth-Century United States," Cooperation and Conflict: Readings in American Federalism, edited by Daniel J. Elazar, R. Bruce Carroll, E. Lester Levine, and Douglas St. Angelo (Itasca, Illinois: F. E. Peacock Publishers, Inc., 1969), pp. 87-94.
2. Ibid. and (in same book) R. Bruce Carroll, "Intergovernmental Administrative Relations," pp. 292-293.
3. George Dangerfield, The Awakening of American Nationalism, 1815-1828 (New York: Harper and Row, 1965), pp. 196-202; Forest G. Hill, Roads, Rails & Waterways: The Army Engineers and Early Transportation (Norman: University of Oklahoma Press, 1957), pp. 45-49.
4. U. S., Congress, House, Laws of the United States Relating to the Improvement of Rivers and Harbors From August 11, 1790 To June 29, 1938, 3 vols., H. Doc. 1491, 62d Cong., 3d sess., 1940, I, p. 26.
5. Ibid., I, pp. 27-28.
6. Martin Reuss and Paul K. Walker, Financing Water Resources Development: A Brief History (Washington, DC: Historical Division, Office of Administrative Services, Office of the Chief of Engineers, July 1983), Engineer Pamphlet 870-1-13, 6. pp. 9-11.
7. Edward Lawrence Pross, "A History of Rivers and Harbors Appropriations Bills, 1866-1933," unpublished Ph.D. dissertation, The Ohio State University, 1938, p. 44.
8. Cited in Reuss and Walker, Financing Water Resources Development, p. 12.
9. Charles Yoe, "The Declining Role of the U.S. Army Corps of Engineers in the Development of the Nation's Water Resources," unpublished report, Colorado Water Resources Research Institute, Colorado State University, August 1981, pp. 18-19.
10. Samuel P. Hays, Conservation and the Gospel of Efficiency: The Progressive Conservation Movement, 1890-1920 (Cambridge: Harvard University Press, 1959), pp. 93-94.
11. Reuss and Walker, Financing Water Resources Development, p. 14.

12. Cited in *ibid.*, p. 15.
13. For more on the development of local flood control efforts and relations with the federal government, see Robert W. Harrison, Alluvial Empire, vol. I (Little Rock, Arkansas: Pioneer Press, 1961), pp. 50-171.
14. Hays, Conservation and the Gospel of Efficiency, pp. 93-94, 112.
15. *Ibid.*, pp. 112-114.
16. For more on the unique legal arrangements that typified western water rights, see Robert G. Dunbar, Forging New Rights in Western Waters (Lincoln: University of Nebraska Press, 1983).
17. Norris Hundley, Water and the West: The Colorado River Compact and the Politics of Water in the American West (Berkeley: University of California Press, 1975).
18. U.S., Congress, House, Laws of the United States Relating To the Improvement of Rivers and Harbors From August 11, 1790 to January 2, 1939, H. Doc. 379, 76th Cong., 1st sess., 1940, III, p. 1903. For more on the evolution of the "308" reports, see Joseph L. Arnold, The Evolution of the 1936 Flood Control Act (Fort Belvoir, Virginia: Office of History, Army Corps of Engineers, 1988), pp. 16-18.
19. Laws of the United States, H. Doc. 379, III, pp. 1972-73, 2355.
20. Arnold, Evolution of the 1936 Flood Control Act, pp. 13-15, 18-21.
21. See Bruce E. Seely, Building the American Highway System: Engineers as Policy Makers (Philadelphia: Temple University Press, 1987).
22. Martin Reuss, "Andrew A. Humphreys and the Development of Hydraulic Engineering: Politics and Technology in the Army Corps of Engineers, 1850-1950," Technology and Culture 26, no. 1 (January 1985): 23-26.
23. For a general discussion of water resources policy in the 1920s, see Donald C. Swain, Federal Conservation Policy, 1921-1933 (Berkeley: University of California Press, 1963), pp. 96-122.
24. The following discussion of the evolution of the 1936 Flood Control Act is taken largely from Arnold, Evolution of the 1936 Flood Control Act, chaps. IV and V.

25. William Edward Leuchtenburg, Flood Control Politics: The Connecticut River Valley Problem, 1927-1950 (Cambridge: Harvard University Press, 1953), p. 96.
26. Ibid., pp. 98-99.
27. Ibid., pp. 76-79
28. Beatrice Hort Holmes, A History of Federal Water Resources Programs, 1800-1960 (Washington, DC: U.S. Department of Agriculture, Economic Research Service, June 1972), Misc. Pub. No. 1233, p. 20.
29. Commission on Organization of the Executive Branch of the Government, Task Force on Water Resources and Power, Report on Water Resources and Power, 3 vols. (Washington, DC: U.S. Government Printing Office, June 1955), II, p. 744.
30. U. S., Congress, House, Laws of the United States Relating to the Improvement of Rivers and Harbors, H. Doc. 182, 90th Cong., 1st sess., 1968, p. 2877.
31. Commission on Organization of the Executive Branch of Government, Report, II, p. 745.
32. Holmes, Federal Water Resources Programs, 1800-1960, pp. 38-39.
33. William E. Pemberton, Bureaucratic Politics: Executive Reorganization During the Truman Administration (Columbia: University of Missouri Press, 1979), pp. 79-85.
34. Ibid., pp. 97-123; Holmes, Federal Water Resources Programs, 1800-1960, p. 40.
35. Holmes, Federal Water Resources Programs, 1800-1960, p. 41; President's Water Resources Policy Commission, A Water Policy for the American People, vol. I (Washington, DC: U.S. Government Printing Office, 1950), p. 49.
36. Commission on Organization of the Executive Branch of the Government, Report, I, p. 36.
37. Ibid., I, pp. 30-39.
38. Ibid., I, pp. 84-85; Corps of Engineers material dealing with the user fee issue can be found in file 3-1, Civil Works Policy files (XIII), Office of History (OH), Headquarters (HQ), U.S. Army Corps of Engineers (USACE), Fort Belvoir, Virginia. The location will hereafter be cited as OH, HQ USACE.

39. Cited in Commission on Organization of the Executive Branch of the Government, Report, III, p. 1585.
40. Cited in *ibid.*, III, p. 1586.
41. *Ibid.*, III, pp. 1586-87.
42. Presidential Advisory Committee on Water Resources Policy, Water Resources Policy (Washington, DC: U.S. Government Printing Office, 1955), pp. 19, 29-30.
43. *Ibid.*, pp. xi-xii.
44. Holmes, Federal Water Resources Programs, 1800-1960, p. 42; Dwight D. Eisenhower, Mandate for Change, 1953-1956 (New York: Signet, 1965), p. 471.
45. U.S., Congress, Senate, Report of the Select Committee on National Water Resources Pursuant to S. Res. 48, 86th Congress, Together with Supplemental and Individual Views, S. Rep. 2<sup>c</sup>, 87th Cong., 1st sess., 1961, pp. 17-19.
46. Beatrice Hort Holmes, History of Federal Water Resources Programs and Policies, 1961-1970 (Washington, DC: U.S. Department of Agriculture, Economics, Statistics, and Cooperatives Service, 1979), Misc. Pub. No. 1379, pp. 43-45; U.S., Congress, Senate, Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources, S. Doc. 97, 87th Cong., 2d sess., 1962.
47. Richard Allan Baker, Conservation Politics: The Senate Career of Clinton P. Anderson (Albuquerque: University of New Mexico Press, 1985), p. 261.
48. *Ibid.*, p. 257.
49. Richard E. Neustadt, Presidential Power, revised edition (New York: John Wiley & Sons, 1980); transcript, interview with Henry P. Caulfield, Jr. (first director of the Water Resources Council), 5-6 November 1986, pp. 119-122. This and all other transcripts cited in this history are on file in OH, HQ USACE.
50. Laws of the United States, H. Doc. 182, p. 3981.
51. Caulfield interview, pp. 120-126.
52. Report of the Select Committee on National Water Resources, S. Rept. 29, p. 18.
53. For a somewhat critical view of the Water Resources Council, see William Voigt, Jr., The Susquehanna Compact: Guardian of the River's Future (New Brunswick, New Jersey: Rutgers University

Press, 1972), p. 221. For more on the legislative history of both the Water Resources Research Act and the Water Resources Planning Act, see U.S., Senate, Committee on Interior and Insular Affairs, History of the Implementation of the Recommendations of the Senate Select Committee on National Water Resources, prepared by Theodore M. Schad and Elizabeth M. Boswell, 90th Cong., 2d sess., 1969.

54. This follows the argument in Roscoe C. Martin, Guthrie S. Birkhead, Jesse Burkhead, and Frank J. Munger, River Basin Administration and the Delaware (Syracuse: Syracuse University Press, 1960), pp. 332-333.

55. Ludwik A. Teclaff, The River Basin in History and Law (The Hague: Martinus Nijhoff, 1967), p. 100.

56. Ibid.; Martin et al., River Basin Administration, p. 332.

57. Henry P. Caulfield, Jr., "U.S. Water Resources Development Policy and Intergovernmental Relations," in John G. Francis and Richard Ganzel, eds., Western Public Lands: The Management of Natural Resources in a Time of Declining Federalism (Totowa, New Jersey: Rowman & Allanheld, 1984), p. 221.

58. For information about the Corps' participation in this cost-sharing study, see file 1517-01, "Flood Control Cost-Sharing Study (1070)," Record Group 77 (Corps of Engineers), Accession 76-004, Box 2, Washington National Records Center, National Archives and Records Administration, Suitland, Maryland.

59. National Water Commission, Water Policies for the Future: Final Report to the President and to the Congress by the National Water Commission (Washington, DC: U.S. Government Printing Office, 1973), p. 497.

60. Ibid., p. 496.

61. Ibid., p. 499.

62. Ibid., p. 412.

63. U. S. Water Resources Council, "Water and Related Land Resources: Establishment of Principles and Standards for Planning," Federal Register, part III, vol. 38, no. 174, 10 September 1973, pp. 24, 32-34.

64. Ibid., p. 148.

65. Telephone interview between Dr. Martin Reuss and Dr. Edward Dickey, Office of the Assistant Secretary of the Army (Civil Works), 24 May 1988.

66. U.S., Water Resources Council, Options for Cost Sharing: Implementation and OM&R Cost Sharing for Federal and Federally Assisted Water and Related Land Programs, part 5A (Washington, DC: U.S. Government Printing Office, 1975), p. 4.

67. Transcript, interview with B. Joseph Tofani, 10 February 1988, pp. 19-28. Tofani was formerly president of the Water Resources Congress and before that a senior executive in the Army Corps of Engineers.

68. For more on the development of these environmental organizations and the impact on the Corps of Engineers, see Jeffrey Kim Stine, "Environmental Politics and Water Resources Development: The Case of the Army Corps of Engineers during the 1970s," unpublished Ph.D. dissertation, University of California, Santa Barbara, 1984.

69. Multiobjective (as distinct from multipurpose) planning was first systematically studied in the Harvard Water Program. See Arthur Maass, Maynard M. Hufschmidt, Robert Dorfman, Harold A. Thomas, Jr., Stephen A. Marglin, and Gordon Maskew Fair, Design of Water-Resource Systems: New Techniques for Relating Economic Objectives, Engineering Analysis, and Governmental Planning (Cambridge: Harvard University Press, 1962); and Arthur Maass, "Public Investment Planning in the United States: Analysis and Critique," Public Policy 18, no. 2 (Winter 1970): 211-43.

70. U.S., Senate, Committee on Public Works, Civil Works Program of the Corps of Engineers. A Report to the Secretary of the Army by the Civil Works Study Board, 89th Cong., 2d sess., 1966, p. 10.

71. John E. Schwarz, America's Hidden Success: A Reassessment of Public Policy from Kennedy to Reagan, revised edition (New York City: W. W. Norton and Co., Inc., 1987), p. 18.

72. Quoted in *ibid.*, p. 72.

73. *Ibid.*, p. 18.

74. U.S. Congress, Congressional Budget Office, Efficient Investments in Resources: Issues and Options (Washington, DC: Budget Office, August 1983), pp. xii-xiv.

75. Kyle Schilling, Claudia Copeland, Joseph Dixon, James Smythe, Mary Vincent, and Jan Peterson, The Nation's Public Works: Report on Water Resources (Washington, DC: National Council on Public Works Improvement, 1987), pp. iv-v; U.S. Army, Corps of Engineers, Final Report: Evaluation of the Present Navigation System, National Waterways Study (Fort Belvoir, Virginia: U.S. Army Corps of Engineers, Institute for Water Resources, 1982), p. 193.





## II

### THE PROCESS OF POLICY REFORM: DEVELOPING THE STRATEGY

The federal government, like all organizations, is better at fixing simple problems than complex ones. There is little incentive to develop a comprehensive approach to broad socioeconomic issues such as water resources development; the easier approach is to defuse controversial issues one by one within the existing institutional framework. The framework itself, including processes, legislative prerogatives, and bureaucratic "turfs," stay in place, especially if protected by powerful special-interest groups or congressional committees. The result is inconsistency across agencies and generations, and change with each new administration.

The environmental movement of the 1970s, like the Great Depression of the 1930s, afforded an unusual opportunity for change. "For 200 years we have been running out and putting a Band-Aid on water problems," said B. Joseph Tofani, President of the Water Resources Congress. "We need to study and reflect and determine what kind of program we should have."<sup>1</sup> It was an interesting comment from a representative of an organization that had long benefited from legislative largess, and it reflected general frustration with the inability to get new water projects authorized. The question was how to weed out inefficient, marginal projects and expedite the construction of necessary ones.

President Carter chose one route, using executive orders and presidential prestige. In the end, he failed. Ronald Reagan chose the budgetary route and ultimately triumphed.

### The "Hit List"

Jimmy Carter was a sportsman and businessman, and he liked to canoe. While Governor of Georgia, he successfully negotiated the extremely perilous Bull Sluice Rapids on the Chattooga River. However, he was not an avowed environmentalist until the Corps of Engineers turned him into one. The catalyst for this metamorphosis was a \$133 million structure the Corps proposed for the Flint River in Georgia: Spewrell Bluff Dam.

Carter was at first enthusiastic about the dam. His education as an engineer (at the U.S. Naval Academy) and membership in the Middle Flint River Planning and Development Council gave him all the necessary credentials of a pro-growth advocate. However, some of his friends in the environmental community urged him to take a closer look at the Spewrell Bluff project, and Carter did just that. He closeted himself in a room and pored over the Corps' engineering designs and environmental impact statement for the dam. What he found enraged him. In an 18-page letter to the Corps, he concluded that the agency was guilty of both "computational manipulation" and environmental insensitivity. Carter was convinced that the Corps practiced deliberate deception. Exercising his gubernatorial authority, he killed the dam proposal.

More important in the long run, he developed a deep-rooted suspicion of the Corps' integrity, if not its competence.<sup>2</sup> "It became obvious to me," he later wrote, "that none of the [Corps'] claims was true. The report was primarily promotional literature supporting construction."<sup>3</sup> Campaigning for President, he said, "We ought to get the Army Corps of Engineers out of the dam-building business."<sup>4</sup> One of his campaign papers maintained that the "federal government's dam building era is coming to an end. Most beneficial projects have been built."<sup>5</sup> Soon after he was elected President, Carter showed how serious he was.

In early January 1977, Carter's transition team listed 61 Corps of Engineers and Bureau of Reclamation water projects that it wanted to review.<sup>6</sup> The following month, Carter informed Congress of a plan to delete \$239 million for 19 projects from the public works appropriations bill because of the projects' environmental, economic, or safety problems. Included in the list were the Bureau of Reclamation's Central Arizona Project and the Corps' Dickey-Lincoln Dam in Maine and Richard Russell Dam in Georgia and South Carolina.<sup>7</sup> Carter ordered the Departments of Army and Interior to thoroughly review all nineteen projects. The congressional outcry at the President's proposal was enormous, but Carter persisted. Using the then-existing discount rate of 6-3/8 percent, rather than the lower rates prevailing at the time various projects were authorized, the White House staff identified more projects that would fail the economic test. Consequently, Carter added 14 projects to the so-called "hit list" in March, including

the Tennessee-Tombigbee and Red River waterways, both Corps projects. But, for the first time deferring to congressional muscle, he deleted three that had been considered vulnerable. Many of the more powerful congressmen remained outraged, including Senate Majority Leader Robert Byrd of West Virginia, Representatives Jim Wright of Texas and Morris Udall of Arizona, Senators J. Bennett Johnston and Russell B. Long of Louisiana, and John Stennis of Mississippi.

After further review and consultation, Carter announced his final decision on 18 April. He recommended that 18 projects be deleted, at a total savings of over \$2.5 billion. These projects included Lukfata Dam in Oklahoma; Auburn Dam in California; Bayous Boeuf, Black, and Chene in Louisiana; three projects in Colorado; the Garrison Diversion in the Dakotas; Cache River basin in Arkansas; Oregon's Applegate Dam, and the Richard B. Russell project. Carter considered all these projects marginally beneficial at best and insisted they could not be constructed at a time when the federal budget was growing and needed to be balanced. However, bowing to intense pressure, he left untouched both the Tennessee-Tombigbee and Red River waterways. Carter also recommended major modifications of five projects that would save almost \$1.5 billion: the Mississippi River Gulf Outlet, Tensas basin in Arkansas and Louisiana, the Central Utah Project, the Central Arizona Project, and the Garrison Diversion. The President pointed to the need for increased cost sharing on the part of nonfederal interests, for water conservation, and for more

realistic economic and environmental evaluations.<sup>8</sup> But the congressional reaction was vociferous, especially from Carter's own Democratic party. Representative Wright said that Carter threatened to become "a laughingstock" and Texas Congressman Ray Roberts, chairman of the House Public Works Committee, decided that Carter was captured by "environmental extremists and budget hackers."<sup>9</sup>

While the Public Works Subcommittee of the Senate Appropriations Committee was willing to compromise with Carter, proposing that 9 of the 18 targeted projects not be funded, the House Appropriations Committee firmly opposed concessions. It abandoned only one project--Grove Lake in Kansas--that did not have much local support anyway. All the other projects were funded, and the committee even added a dozen projects that had not been included in the administration's budget. The committee's action was upheld in the full House by the relatively narrow margin of 218 to 194, suggesting that the representatives would sustain a presidential veto even if, as appeared probable, the Senate mustered the two-thirds vote necessary to override the President.<sup>10</sup> The Carter White House worked the House furiously, trying to ensure enough votes to support the President. In the end, though, Speaker Thomas P. (Tip) O'Neill cut a deal of sorts with Carter. In exchange for Congress's reducing the funding for the Clinch River Breeder Reactor (another public works project that Carter opposed), maintaining the deletions proposed in the Senate bill, and not approving any new projects, Carter agreed to sign the

public works legislation.<sup>11</sup> He was later to regret the decision. It was "certainly not the worst mistake I ever made, but it was accurately interpreted as a sign of weakness on my part. . . ."12

By the end of October 1977, the President had accomplished the unlikely. He had alienated both Congress with his attacks on pet projects and environmentalists with his last-minute decision to sign the legislation. No one quite knew what to expect next.

### The User Charge Issue

If Carter seemed like the bull in the legislative china shop, his tactics dramatically conveyed an important message: water projects were not sacrosanct and water politics would not continue as usual. However, the message was not exclusively Democratic, nor was the White House the only place sending it. Senator Peter Domenici, the junior Republican from New Mexico, also desired major changes. He focused on the issue of "user fees" for inland navigation. Domenici was convinced that barge, tow, and other commercial navigation interests should pay toward the maintenance and operation of America's inland waterway system. Since the early 19th century, the federal government had assumed the burden for removing navigation obstacles on the riverine "public highways" of the interior. However, especially given the extraordinary demands on the federal budget, Domenici thought it sensible that the barge industry, not the taxpayer, pay for waterway improvements.<sup>13</sup> On 24 February 1977, only a few days after Carter exploded his bomb on

water projects, Domenici submitted a bill that drew far less immediate attention, but was to have as great an impact as Carter's initiative. Into the hopper on the marble desk at the front of the Senate chamber, Domenici dumped a waterway user-fee bill.<sup>14</sup>

Domenici realized passage depended on support from at least some senators who traditionally supported navigation interests. To get this, he settled on an ingenious strategy. He wrapped into his legislation a measure that authorized a replacement for Lock and Dam 26 on the Mississippi River. The old lock and dam had become a major bottleneck on the Mississippi River system, and its replacement had become the number one priority for the barge and tow industry. Domenici's ploy worked amazingly well at first.<sup>15</sup> The Senate passed the bill on 23 June 1977 by the overwhelming vote of 81 to 9. However, the House refused to consider the measure, claiming its constitutional prerogative of initiating revenue-producing legislation. Consequently, the entire process had to begin anew, this time with the House Ways and Means Committee considering the user charge, and the Public Works Committee addressing the Lock and Dam 26 project.

The bill passed by the Senate had directed the Secretary of Transportation to develop a user fee system to recapture 100 percent of the government's waterway O&M expenses and 50 percent of the construction costs. This would amount to about \$200 million a year and would be obtained through tolls and license fees.<sup>16</sup> This capital recovery system explicitly linked the government's expenses to the amount of user fee charges. However, the House's user-fee



system was far more limited. It involved a flat tax, and the only issue was what the rate should be. The two House committees agreed to a four cents per gallon fuel tax. The barge industry's "compromise" was one cent per gallon. A railroad lobbyist suggested 64 cents per gallon, while Brock Adams, the Secretary of Transportation, insisted that the flat-rate tax should take in as much money as would have been the case under the Senate's capital recovery system. He thought this would amount to about 40 cents per gallon.<sup>17</sup> Such a rate was politically unrealistic, and few words were wasted on the proposal in committee hearings. The Ways and Means Committee bent only slightly. The final bill required a four-cents-per-gallon rate for the first two years and six cents per gallon thereafter. On 13 October, the bill, with the Lock and Dam 26 project included, passed the House by a vote of 331-70.<sup>18</sup>

Major philosophical and strategic differences separated House and Senate conferees. Senator Domenici would have nothing to do with a six-cents-per-gallon tax, calling it "totally inadequate." Senator Russell Long, chairman of the Senate Finance Committee, was optimistic at the outset, thinking that a good compromise would result in ten cents per gallon. Navigation interests, who were as worried about the precedent established as about the tax proposed, mobilized to fight any user-tax legislation.<sup>19</sup> Week after weary week, the conference met, but the members would not waver. The first session of the 95th Congress closed with the issue unresolved.

Debate on the Panama Canal, in spring 1978, further delayed

progress on the user-charge problem. By then, the bill included various unwanted amendments that dealt with all sorts of unrelated water projects. The administration also sent out conflicting signals. Brock Adams wanted Carter to veto any legislation that contained only flat-rate user charges. However, Frank Moore, the chief presidential lobbyist, recommended that Carter go along with the weaker version in order to buy credit with Senator Long, whose powerful hand touched numerous bills of concern to the administration. In the end, Carter allowed a message to be sent to the Hill that threatened the "possibility of veto." Not as strong as Adams wished, the note still did much to gird opposition to the flat-rate concept.<sup>20</sup>

Senator Domenici again took the lead when the user-fee issue appeared to be going nowhere. This time allied with Senator Adlai Stevenson III of Illinois, whose principal interest was in the construction of a new Lock and Dam 26, Domenici introduced legislation that incorporated parts of both bills that had been considered in conference. The new legislation would impose a fuel tax at 4 cents per gallon and gradually increase it to 12 cents. It also proposed a separate fee system that would recover a certain portion of the federal government's annual waterway expenditures. Of course, the bill also authorized the construction of a new lock and dam. The new version reached the Senate floor in May 1978.<sup>21</sup> Concurrently, Senator Long introduced his own bill, which stipulated the same fuel tax levels as the Domenici-Stevenson draft, but had no capital recovery provision.

Despite intensive lobbying by the Carter White House, including presidential calls from Air Force One, the Domenici-Stevenson bill lost, 43-47. On the next vote, Long's passed overwhelmingly by 88-2. While the Senate thereby had supported the concept of user charges, it had refused to embrace capital recovery, and without it there was a good chance that Carter would veto the legislation. The senators obviously thought that he would back down. They were wrong. The President quickly announced his intention: "There will be no Lock and Dam 26. There will be no waterway user fee."<sup>22</sup>

In the next few months, the chief question was how to cope with the capital recovery problem. Eventually, Harold (Hal) Brayman, who worked for Senator Domenici on the Senate Environment and Public Works Committee, and Bernard (Bobby) Shapiro of the Joint Committee on Taxation (and Russell Long's chief negotiator) reached an accord on a new approach, the establishment of an "Inland Waterways Trust Fund." Brayman acceded to a ten-cents-per-gallon flat tax, while Shapiro agreed that the money would go into the trust fund and be used to help offset federal operation and maintenance expenditures. This innovative approach met considerable resistance from railroad groups and environmental organizations because it did not set an explicit limit on waterway expenditures. Nevertheless, Domenici agreed to it. Getting it to a vote became the major problem in the closing days of the congressional session. Russell Long solved that problem by attaching the legislation--including the authorization for a new

Lock and Dam 26--to a bill that exempted from taxation the bingo game profits earned by political organizations. That bill had been introduced by Representative William Brodhead of Michigan to help out his state's Democratic party. Now with totally new amendments, the "bingo bill" was passed by the Senate on 10 October and by the House on 13 October. President Carter signed the bill on 21 October, establishing the first user fee on the nation's waterways.<sup>23</sup> Equally important, this legislation initiated a pattern of linking major policy reforms to project authorizations. It was a pattern that continued through passage of WRDA-86.

#### Congressional Frustration and Presidential Failure

Carter signed the "bingo bill" just two weeks after he had vetoed a water appropriations bill, calling it "inflationary . . . wasteful . . . and absolutely unacceptable."<sup>24</sup> Coming just after passage of Proposition 13 in California, which some saw as the beginning of a nationwide taxpayer rebellion, and supported by post-Watergate, reform-minded congressmen, the veto held; Congress considered new legislation. The remodeled bill dropped 6 of the 9 projects that Carter opposed, cut 11 new projects, and dropped the appropriation for 2,300 new federal jobs for dam-construction agencies. Carter approved this measure, but another major fight loomed.<sup>25</sup>

That fight was over a separate authorization bill. In the final days of the congressional session, Senator Mike Gravel of

Alaska attempted to attach a 35-page amendment to a bill originally intended to name a Shreveport, Louisiana, federal building after Congressman Joe Waggoner. The amendment would have authorized more than \$1 billion in new projects. Objections from several senators stopped Gravel, but another maneuver quickly ensued. The amendment was attached to a bill called the "Emergency Highway and Transportation Repair Act of 1978," which was mainly designed to provide federal aid to repair potholes. That language was taken out, and authorization for 158 water projects was inserted. Robert Byrd, the Senate Majority Leader, working with Senator J. Bennett Johnston of Louisiana, managed to get the bill to the Senate floor, where it was passed with only hours left in the session.

Representative Allen Ertel of Pennsylvania then hurried the legislation over to the House side, where confusion reigned. "This is the pothole bill, but they took out the potholes and put in the water projects," he explained.<sup>26</sup> Some of Ertel's colleagues did not get the message. Congressman Thomas Foley of Washington, who supported the water projects, thought that the pothole bill was actually what the title said it was. He objected to a vote because of a lack of a quorum despite last-minute efforts of committee staff to set him straight. Meanwhile, Pennsylvania Representative Robert Edgar of the House Public Works and Transportation Committee was sitting in his office unaware of the floor proceedings until he saw them on closed-circuit television. Committee staff had purposely not kept him informed because they knew that the reform-minded representative would attack the legislation for being

another raid on the pork barrel. He rushed to the House chamber to learn that, indeed, a \$1.6 billion water bill stuffed full of new projects was being considered. Edgar objected, but ironically it was Foley who was recognized, and whose objection laid the bill to rest. Later, the Congressional Record was rewritten to show that Edgar had been recognized, not Foley.<sup>27</sup>

For lack of a quorum, the pothole bill died. With it died chances of Congress passing a biennial water project authorization bill--the first time in 20 years that this had occurred.<sup>28</sup> Had the bill come up earlier in the day when a quorum was present, it undoubtedly would have passed. Of course, President Carter might have vetoed the bill, and it is uncertain whether Congress would have overridden the veto. Had the bill been passed and signed or, upon reconsideration, been passed over a veto, it certainly would have changed the direction and substance of subsequent water resources debates. The pressure to authorize projects would have lessened, and with it the pressure to develop new cost-sharing policies. Many of the projects in this bill were identical to the ones authorized in WRDA-86.<sup>29</sup>

President Carter was interested in more than changing Congress's traditional approach to water projects. He also wished to establish policies to ensure that projects were environmentally sensitive and that non-federal interests bore an appropriate share of the construction costs. In June 1978, he announced a new water policy that incorporated four aims:<sup>30</sup>

1. To improve planning and management "to prevent waste and to permit necessary water projects which are cost-effective, safe and environmentally sound to move forward expeditiously,"
2. To emphasize water conservation,
3. To "enhance Federal-State cooperation" and improve state water planning, and
4. To increase attention to environmental quality.

While the increased attention to environmental quality--including a requirement that a nonstructural alternative be developed for every proposed dam or channel--was controversial, the cost-sharing details drew particular criticism. The Carter White House wished to charge nonfederal interests ten percent of the construction costs associated with water-supply, irrigation, power, and recreation benefits and five percent of the construction costs for flood control, navigation, and "area redevelopment" projects.<sup>31</sup> In addition to these requirements, a further 20 percent nonfederal contribution was recommended for flood damage reduction measures.<sup>32</sup> Carter also wished to have the Water Resources Council review all water projects. This proposal helped motivate the House to vote for the abolition of the council. The Senate refused to go along, but it did vote to eliminate funding for the

council for fiscal year 1979.<sup>33</sup> In the end, after Carter had vetoed one appropriations bill, Congress agreed to fund the WRC for another year. However, the President had to abandon his attempt to have the council review all water projects. Representative Wright no doubt mirrored the feelings of many congressman when he said that if Carter "wants to pick a fight, here's the place to pick one."<sup>34</sup>

Carter's initiatives generated a great deal of discussion at all levels of government and among professional organizations. The American Society of Civil Engineers generally supported the President. Indeed, in certain areas the society even went further than Carter's proposals. For instance, it pushed for a strengthened Water Resources Council, to be made into an independent commission, and it endorsed the old idea of river basin planning commissions. The organization did express doubts about the cost-sharing provisions, believing them overly complex. Instead, it suggested full federal financing but with some sort of nonfederal repayment over succeeding years. An alternative plan, which would require substantial legislation, would be to have federal and nonfederal interests share in the costs and revenues in proportion to financial investment.<sup>35</sup> The National Governors' Association supported Carter's call for increased water conservation, but not surprisingly stressed that states "have the primary authority and responsibility for water management". Federal actions, the governors proclaimed, should be consistent with state and interstate water programs. At the same time, the



state leaders recommended additional federal research support under the 1964 Water Resources Research Act.<sup>36</sup> Lieutenant General John W. Morris, the Chief of Engineers, said that he frankly did not care if another dam was built; however, the Corps "is not in the business of doing nothing."<sup>37</sup>

Morris may not have cared, but a number of politicians did. In 1979, Senator Domenici worked with Senator Daniel Patrick Moynihan of New York on legislation that would authorize annual appropriations to states for water projects based on population and land area. States would be required to pay a quarter of each project's cost, regardless of the type, and could spend their allocation on whatever water projects they wished with the exception of navigation projects, which would be covered in separate legislation.<sup>38</sup> The Moynihan-Domenici bill reflected the frustration of the two senators with the impasse over water resources legislation, but its chances of passage were nil, for it transferred to the states prerogatives jealously guarded by Congress. Capitol Hill politicians predictably opposed any diminishment of their capability to allocate federal funds to specific regions of the country. The legislation did not reach the floor of either the House or Senate.

Senator Domenici's "bingo bill" had worked because he had been able to form an uneasy coalition among waterway users, environmentalists, and reform-minded budget-watchers. The Moynihan-Domenici initiative failed partly because its sponsors could not convince their colleagues to treat water projects in the

same way as highways or waste-water treatment plants; that is, through grant programs. President Carter was equally unsuccessful in making permanent changes in the federal water resources program. Major General Ernest Graves, the Corps' Director of Civil Works in the first two years of the Carter administration, thought that the President would have been more successful if he had ordered a study done during his first year in office to provide a firmer basis for recommendations to Congress. Meanwhile, he could have worked on developing a coalition of supporters.<sup>39</sup> Alternatively, Guy Martin, Carter's Assistant Secretary of the Interior, suggested in hindsight that Carter should have concentrated on 3 or 4 of the worst projects rather than taking on 20 or 30 at the same time: "In war, you don't take two dozen beachheads on the same day. You can't, for God's sake. But he could have won some big ones."<sup>40</sup>

Not only did Carter's project and policy recommendations meet with congressional resistance, but so did some of his reorganization proposals. One option that was seriously considered was the creation of a Department of Natural Resources that would have included the civil works budgeting, planning, and policy functions of the Corps of Engineers. This proposal--an echo of similar proposals made over previous decades--encountered strong objections from both Congress and the Department of the Army.<sup>41</sup> The initiative, as well as one to create a separate water project review board outside of the Water Resources Council, ended in failure. Likewise, Carter's cost-sharing proposals and

recommendations for changes in benefit-cost calculations also were defeated. While the President managed to stop several water projects, generally they were not among the most expensive or even environmentally damaging. There was simply less constituent or special-interest support of those projects, so Congress was willing to sacrifice them.<sup>42</sup> In the end, Carter's actions in his last two years undermined the positions he had advanced the first two; they also reflected a heavy dose of political realism. If the President were to accomplish anything, compromise was essential. Therefore, Carter signed an Energy and Water Development Appropriations Act (P.L. 96-69) in September 1979, which waived the Endangered Species Act and "any other law" that would have prevented construction of the Tennessee Valley Authority's Tellico Dam. He also approved record funding for the Bureau of Reclamation, while funding for the Corps climbed to over \$3 billion. In early 1980, he announced that he wanted 125 projects eliminated from the 1981 budget. But in October, responding to election-year realities, he signed an appropriations bill that included nearly all of those projects.<sup>43</sup>

#### Reagan and the Budget Trimmers

Ronald Reagan came into office in January 1981 with a program and perspective in marked contrast with Carter's. He stressed limited federal government. Whenever possible, except in the area of national defense, the nonfederal public and private sectors should assume more of the federal burden. This position was not

only philosophically appealing to the conservative administration, but appeared to answer the growing concern over mounting federal deficits. Its complement was "supply side" economics, which emphasized drastically reducing government intrusions into the marketplace and trimming taxes. Once in place, so the argument went, this new fiscal policy would increase output, savings, and investment.<sup>44</sup> As Garry Wills put it, "Inflation elected Ronald Reagan in 1980,"<sup>45</sup> and economic issues remained the new President's preoccupation.

With the new perspective came a new method of implementation. Carter had confronted Congress, compromised, cajoled, and occasionally capitulated. Working with his determined Director of the Office of Management and Budget, David Stockman, Reagan attempted to change policy as much through budget manipulation as through the legislative process. "Budget is policy" was the lesson, and Reagan's advisors were outstanding students.<sup>46</sup> James Watt, the new Secretary of Interior, candidly announced, "We will use the budget system [as] the excuse to make major policy decisions."<sup>47</sup>

Yet, as Stockman and company soon discovered, this was easier said than done. Reagan wanted actually to increase the defense budget, which already accounted for about a quarter of federal expenditures. Entitlement programs, such as Social Security, welfare, Medicare, and pension checks, accounted for nearly half of the budget and were nearly immune to significant change because of political concerns. Interest payments amounted to ten percent of

the budget. That left approximately 17 percent of the federal budget subject to trimming or elimination.<sup>48</sup> Water projects amounted to about one-half percent of the budget<sup>49</sup> but to a little over three percent of the portion of the budget vulnerable to the budgetary ax.

Nevertheless, water project supporters initially were optimistic. Unlike Carter's, Reagan's concerns were mainly economic, not environmental. Indeed, the administration suspected environmentalists and was uncomfortable with them. Watt feared that the states "may be ravaged as a result of the actions of the environmentalists--the greatest threat to the ecology of the West." The Bible advises us, he said, "to occupy the land until Jesus returns."<sup>50</sup> Presumably, God favored mineral, land, and water resources development.

Watt was committed to water projects. So was William R. Gianelli, who became the Assistant Secretary of the Army, Civil Works, in April, 1981. The third person in that position, Gianelli was the first to hold a civil engineering degree and also the first to have an extensive background in water resources development. He had been Director of the California Department of Water Resources when Reagan was governor and had supervised the completion of the \$1.5 billion first phase of the California State Water Project. He wanted to find a way to initiate construction of much-needed projects, but without breaking the federal budget: "The problem as I saw it was that some additional means had to be found for financing federal water projects. Due to the pressures on the

budget--particularly in the defense area and the social programs--we couldn't expect a large amount of federal money to be allocated on the same basis that it had in the past to finance federal water projects."<sup>51</sup>

While probably every political appointee in the Reagan administration agreed on the need to find new ways to finance federal projects, a great deal of disagreement existed over how to do it, or exactly how much nonfederal interests should pay. Stockman wasted no time in taking on the water projects. He suggested to Congress that beneficiaries of new navigation projects pay in full amount for construction and maintenance. The money would be recovered through user fees on commercial navigation. Gianelli would have preferred some "middle ground" between Stockman's position and the low percent that had historically been the case, but he deferred to Stockman, the more senior official.<sup>52</sup> The administration also wished to defer the construction of "less critical" water resources projects. This would have meant the delay of some 70 of more than 300 projects then being considered in Congress, saving \$1.6 billion over the following five years.<sup>53</sup> Meanwhile, there was much talk in Congress and within the executive branch of cost sharing on flood control dams, something that had not happened since 1938, despite repeated attempts.<sup>54</sup>

#### User Fees and Cost Recovery

In a somewhat surprising maneuver, OMB assigned the Secretary

of the Army the responsibility to develop a detailed legislative proposal on user fees. In the Carter administration, the user-fee champion had been the Secretary of Transportation. But Reagan's choice to head the Department of Transportation, Drew Lewis, disagreed with Stockman from the outset on some major policy issues. Possibly, this had something to do with transferring the user-fee issue to the Secretary of Army's office.<sup>55</sup> For his part, Gianelli welcomed the opportunity to be the administration's spokesperson on the issue but was frustrated by OMB's initial inflexibility.<sup>56</sup>

In March 1981, Acting Assistant Secretary of the Army, Civil Works, Lee Rogers transmitted to Congress the OMB-approved legislative proposals. The administration sought to recover fully the capital, operation, and maintenance costs of most inland waterways of 14 feet or less in authorized depth through the imposition of user fees and to shift the full cost of operating and maintaining deep draft channels--those over 14 feet deep--onto the backs of local authorities. These local entities then would be allowed to collect fees from vessels to meet their financial obligation.<sup>57</sup> The proposal was broken into two bills, S. 809 (H.R. 2959), dealing with deep-draft ports, and S. 810 (H.R. 2962), covering shallow-draft inland navigation. The reaction was immediate and predictable. Few lawmakers thought 100 percent cost recovery either feasible or necessary. Even Republican Senator Domenici, the original congressional champion of waterway user fees, demurred from the administration position. On 8 April he

introduced his own legislation in the form of amendments to the two administration bills. His proposal called for recovering 75 percent of O&M expenses and 50 percent of new construction costs for inland navigation channels. Whenever local interests wished to deepen a harbor beyond 40 feet in depth, Domenici advocated automatic congressional authorization, so long as the local interests agreed to the same cost-sharing formula the senator proposed for inland navigation channels.<sup>58</sup>

Because of the energy crisis and the need for facilities to handle super-tankers and dry-bulk carriers, the future of deep-draft harbors drew national attention in the early 1980s. No Atlantic or Gulf port was able to handle a fully loaded ship with a draft in excess of 45 feet. Yet, the shipping industry predicted that by 1990 half of the world's ocean-going cargo would be carried by vessels greater than 100,000 dead-weight tons. J. Ronald Brinson, Executive Vice President of the American Association of Port Authorities (AAPA), warned Congress that the inability of the United States to handle ships of this size could severely handicap U.S. ability to compete in world coal markets.<sup>59</sup> The AAPA's major concern was to expedite dredging, and the organization suggested that the Corps be given blanket authorization to undertake maintenance dredging at any American port. The AAPA declared that the administration's proposals for cost recovery for deep-draft channel maintenance and development were an "abrogation of the traditional federal role," but it suggested that, in the event such a system were established, the fees should remain with local



authorities for their use rather than funneled to the federal treasury.<sup>60</sup>

Senators and representatives from states with major ports shared the AAPA's desire that harbors be deepened as quickly as possible. The buzz-word was "fast-tracking." The procedure had many variations, but the goal was always the same: to direct the Corps of Engineers to expedite navigation improvements at certain key ports. The Louisiana House delegation proposed a bill (H.R. 55) to authorize the Corps to dredge maximum depths of 55 feet on an expedited basis for the ports of Norfolk, Mobile, New Orleans, and Baton Rouge. Senators Patrick Moynihan and Jennings Randolph introduced legislation (S. 576) to create an "Interagency Harbor Development Task Force" to project future port requirements. In H.R. 3977, representatives from Virginia sought to shorten the planning process for critical channel improvements. The bill specifically addressed ways to shorten delays caused by environmental concerns. It also mandated that local interests pay no more than 40 percent of the construction costs and 25 percent of future O&M expenditures. Senator John Warner and a number of his colleagues introduced the same bill (S. 1389) into the upper chamber. Texas Senator Lloyd Bentsen proposed that local port authorities finance new construction and then receive a 75 percent federal reimbursement.<sup>61</sup> Variations on these bills abounded in Congress.

The question of paying for channel deepening caused much anguish. The AAPA protested that, while the federal government had

invested some \$4.6 billion in the deep draft navigation system, the nonfederal sector had invested nearly \$7 billion.<sup>62</sup> The organization apparently included in its estimate the nonfederal contribution toward lands, easements, and rights-of-way and also the cost of port, terminal, and berthing facilities. The Congressional Budget Office (CBO) later calculated that the federal government paid some 84 percent of the construction and operational costs of ports and harbors.<sup>63</sup> Historical data as well as present-day economic and political reality dictated the position of the various legislators. Representative Mario Biaggi from New York City, chairman of the Merchant Marine Subcommittee of the Merchant Marine and Fisheries Committee, proposed that federal funding of ongoing harbor maintenance programs be retained and that cost sharing be restricted to new projects requiring depths greater than 45 feet. Nonfederal interests would pay 50 percent of the construction and 75 percent of operation and maintenance. This formula attracted a number of port authorities since it did not exclude full federal funding for ports opting for the traditional--and much slower--planning and construction process.<sup>64</sup> Biaggi's position was important since his subcommittee considered any port legislation referred to the Merchant Marine and Fisheries Committee.

In what many thought a case of strange bedfellows indeed, conservation organizations such as the Sierra Club, the Environmental Defense Fund, and the Environmental Policy Center joined the administration in calling for full cost recovery of

operation, maintenance, and new construction of harbor channels.<sup>65</sup> The more conservative National Wildlife Federation focused its concern on the wishes of some congressmen to delegate blanket authority to the Corps to deepen channels quickly. The federation generally was suspicious of fast-tracking and encouraged Congress to look at each project on a case-by-case basis and to develop a rational approach for port development that did not sacrifice analysis of environmental impacts for expedited dredging and deepening of navigation channels.<sup>66</sup> In the next few years, the administration was to court environmental support with generally successful results.

Cost sharing was an emotional issue, especially since it reversed the historical position of the federal government that favored the full federal funding of most harbor projects.<sup>67</sup> Equally controversial was the idea of cost recovery--that the federal government and local interests should recover their share of the costs of completed work through the imposition of fees or tolls. The 1978 "bingo bill" had already established a precedent for cost recovery in the form of user fees, but that law applied only to inland waterways.

Levying tolls at the nation's major ports had international as well as domestic ramifications, and a great many more interests were involved than in inland navigation. For these reasons, no waterway issue proved more difficult to resolve. Even for those who agreed that deep-draft user fees were necessary, the form of the fee remained the subject of intense debate. Essentially, three

methods were proposed: port specific fees, ad valorem fees, and tonnage fees. At first, the administration favored port-specific fees, while lower cost ports supported ad valorem assessments, and high-cost ports desired tonnage fees.<sup>68</sup> Oregon Senator Mark Hatfield, the powerful head of the Senate Appropriations Committee, got involved in the debate early in an effort to protect Columbia River deep-draft ports.<sup>69</sup> In legislation (S. 1586) he introduced in early August 1981, Hatfield proposed tonnage fees whose values were to be determined by the Secretary of the Treasury based on the specific commodity being assessed. The values would be changed every three years as necessary. This approach had the virtue of being straightforward and easy to calculate. However, there were problems with it. First of all, a closer examination showed that it would handicap American shippers exporting abroad. Of particular concern were coal shippers that used large dry-bulk cargo carriers. Containerized shipping would not be so severely damaged, so the senator's staff developed a two-tiered approach, one tonnage fee for bulk cargo and another for containerized cargo. United States trade representatives pointed out that this would "raise holy hell" with American trading partners that used container ships.<sup>70</sup> That idea was forgotten, but for the moment the senator clung to the tonnage fee approach. With Senators Strom Thurmond of South Carolina and Mack Mattingly of Georgia, he reintroduced the concept in another bill (S. 2217) in February 1982.

However, both tonnage and port-specific fees proved

politically unpopular, so Senator Hatfield's staff began to consider more carefully an ad valorem tax. This approach likewise encountered skepticism, but gradually support increased. It was apparent that an ad valorem approach, with a percentage tax on actual value at time of sale, would be more equitable than either port-specific or tonnage fees. No one could claim an advantage or disadvantage, and the tax would be instantaneously responsive to price changes. In short, the argument went, the market would determine the actual tax rather than any arbitrary decision. While an appropriate ad valorem rate needed to be decided, consideration of that sensitive issue raised other questions in a political chain reaction of issues and controversies. For instance, the rate to be set obviously depended on the amount of money that was required, and that issue raised other questions: how much would operation and maintenance cost in the next few years, what was the appropriate cost-sharing formula, how much cargo was actually being moved, and should coast-wise traffic be charged? The more the entire concept was examined, the more frustrating and difficult it became.<sup>71</sup>

Meanwhile, the administration continued to push for cost recovery for the operation and maintenance of inland waterways. Secretary Gianelli directed the Corps to develop data and draft revisions to S. 810, the shallow-draft user charge bill. In response to OMB guidance, the Corps developed legislation that reflected prevailing administration views, if not political reality. Distributed at the beginning of July 1981, the revised

Corps version would have applied to nearly all navigable waterways of the United States. Instead of a maximum 10-cents-per-gallon fuel tax by 1985 required by the 1978 legislation, the Corps proposal would have initiated a jump from the then 4-cents-per-gallon tax to 29 cents per gallon by 1 October 1981, increasing to 34 cents per gallon by 30 September 1984.<sup>72</sup> If the Administration wanted to agitate waterways interests, it certainly succeeded. Perhaps, the executive branch hoped that planned panic would result in fewer objections to less radical proposals. In any event, in mid-July Secretary Gianelli proposed to Congress legislation that was mild only in comparison with what had been circulated around Washington for the previous two weeks. The new administration legislation applied to most waterways up to 14 feet--waterways on the East and West Coasts were omitted except for the Atlantic Intracoastal Waterway and the Willamette and Columbia-Snake rivers--and would establish a 15-cents-per-gallon fuel tax beginning on 1 October 1981. In addition, as in S. 810, the Army would be authorized to collect additional user charges, such as lockage fees and segment tolls. The funds thereby recovered would equal 100 percent of operation, maintenance, and amortized construction costs.<sup>73</sup> Less draconian than the 1 July revision, this version still caused nightmares among waterway users. OMB personnel pursued the course, however, and discussed changes with various interests and lobbying organizations.

Budget Director Stockman continued to apply pressure. He told Congress that without higher user charges there would be no funds

in the federal budget for "major new construction" of waterway and port improvements.<sup>74</sup> Senate Water Resources Subcommittee Chairman James Abdnor of South Dakota mirrored the view of many of his colleagues when he expressed doubts about the need for user fees. Not surprisingly considering his farmland constituency, he expressed concern over what the increased fees would do to farmers, who would have difficulty passing on increased costs to buyers.<sup>75</sup> Abdnor's committee held hearings in Washington and around the country about both deep-draft and shallow-draft fees, but no major changes in position resulted. Nevertheless, the hearings did convey to the committee the major impact that increased user fees might have on certain regions of the country.<sup>76</sup>

The urgency of deepening deep-draft channels to accommodate modern cargo ships meant that deep-draft legislation was bound to move forward faster than proposals for increasing shallow-draft user charges. In late fall of 1981, the Senate Environment and Public Works Committee approved, 13-3, a port-development bill sponsored by Senators Abdnor and Moynihan. The bill's major provisions would require nonfederal interests to fund the full cost of new port improvements, 50 percent of the operation and maintenance costs for new and deeper harbor channels, and 25 percent of the O&M costs of existing channels. Nonfederal interests also would be empowered to levy user charges to cover most or all of their costs; a cap prevented a local tonnage charge for O&M reimbursement from exceeding by more than 50 percent the national average for such a charge.<sup>77</sup> Stockman urged the

committee to raise the O&M recovery level to "provide the receipts necessary for a healthy dredging program," but was unsuccessful.<sup>78</sup>

He found an ally in Senator Domenici, who suggested that nonfederal interests could afford to pay for 75 percent of O&M activities for both ports and inland waterways. The senator, who chaired the Senate Budget Committee, had already submitted legislation to phase in user fees over five years that would ultimately lead to a federal subsidy of 25 percent for O&M and 50 percent for capital expenditures throughout the nation's waterway system. He warned that he would push for higher levels in floor debate the following year.<sup>79</sup>

When the second session of the 97th Congress convened in January 1982, the user-fee issue was high on the legislative agenda, but few were willing to predict the outcome. Both the House and Senate were waiting for an overdue user-fee report from the Secretary of Transportation. Called the "205 study" because it was authorized in section 205 of the Inland Waterways Revenue Act of 1978 (Title II of the "bingo bill"), the study was to present to Congress all the relevant facts on past, present, and probable future federal assistance to waterways and to analyze the impact of increased user fees on economic development. Secretary of Transportation Drew Lewis finally forwarded the study to Congress on 1 February, and Senator Abdnor held hearings on it ten days later.<sup>80</sup>

At the hearings, Lewis had to defend both the report and the Administration's latest cost-recovery proposal. Waterway users



attacked the report for underestimating navigation costs and over-estimating future waterborne commerce growth. Another point that upset them was that the report did not envision any requirement for major construction in the next two decades.<sup>81</sup> However, as troubling as the report's conclusions were, far more unsettling was the administration's new position on cost recovery.

To cover operation and maintenance expenses, the administration proposed in place of a fuel tax a millage tax per ton-mile. In addition, on those waterway segments where new construction occurred, some sort of segment-specific charge on a per-ton basis would be assessed. Only construction funds expended during fiscal year 1983 or later would be subject to recovery. "To be specific," Secretary Lewis told the senators, "the effect of this definition would be that we would recover about 85 percent of the costs on the new dam and the first chamber at Lock and Dam 26 and about 30 percent of the costs of construction on the Tennessee-Tombigbee."<sup>82</sup> The section 205 study had concluded that 100 percent cost recovery for O&M activities would require an immediate increase of the fuel tax to about 34 to 38 cents per gallon (the fuel tax in 1982 was 6 cents per gallon). The administration wished to recover approximately the same amount through a ton-mileage tax. Secretary Lewis explained that one advantage of this system would be that it would decrease the administrative burden, since it would simply require modifying a reporting system already in place that required carriers to report tonnage and commodity data to the Corps of Engineers.<sup>83</sup>

Following Lewis's testimony, Alice Rivlin, Director of the Congressional Budget Office, testified. The CBO agreed that "higher waterway user charges would help promote the more efficient Federal investment policy for waterways, as well as more efficient use of the nation's transportation resources."<sup>84</sup> Rivlin pointed out that in terms of volume of traffic, domestic inland water transportation received the highest federal subsidy. In 1980, federal waterway subsidies amounted to 3.9 mills per ton-mile, whereas railroads received 2.2 mills per ton-mile and trucks only about 1.8 mills per ton-mile.<sup>85</sup> Generally, the CBO supported both the methodology and conclusions of the Department of Transportation's 205 study.<sup>86</sup>

The following week, Secretary Gianelli testified before the Water Resources Subcommittee of the House Appropriations Committee. He had a difficult time. The administration budget for fiscal year 1983 called for a cut of \$150 million in appropriations for the operation and maintenance of dredging projects. Without that money, the future of scores of waterways and ports was threatened. Many would have to close down. Stockman informed Congress that the money would be restored when Congress passed user-fee legislation that met the administration's goals. Tom Bevill of Alabama, the subcommittee's chairman; and Jamie Whitten of Mississippi, chairman of the full Appropriations Committee, lambasted Gianelli on the issue. Other congressmen did likewise.<sup>87</sup> Lindy Boggs of Louisiana accused the administration of ignoring congressional orders to complete two Louisiana projects, the Red River Waterway

and the Tensas Wildlife Refuge. Gianelli replied that "we thought we had the flexibility to do what we did." That drew another rebuke from Bevill who advised Gianelli to "double-check on your lawyers."<sup>88</sup>

The question of user fees obviously was not going to be resolved easily. Executive branch agencies had submitted three different drafts just for shallow draft O&M recovery since February 1981, and many more versions had been discussed within the executive branch. Representatives and senators had submitted their own versions. Moreover, a large number of House and Senate committees were showing interest in the subject. New Jersey Representative Robert Roe's Subcommittee on Water Resources had not yet held hearings, and other subcommittee chairmen wanted to consider specific impacts. For instance, Congressman Thomas Luken, chairman of the Small Business Subcommittee; and Congressman James Oberstar, chairman of the Economic Development Subcommittee, both expressed interest in the user-fee proposals.<sup>89</sup> However, interest is one thing, action another. An election was to be held in the autumn of 1982, and most congressmen were apparently more than happy to delay floor consideration for another year. Meanwhile, there always was hope that the Administration would retreat from its insistence on 100 percent nonfederal funding.

#### Cost-Sharing New Projects

While user fees attracted much attention, especially from

waterway interests, of equal or greater concern was the continuing impasse on authorizing new construction of water projects. No omnibus water resources legislation had been passed since 1976, and the last major act was in 1970. No one championed the authorization of massive projects. However, a number of much smaller navigation and flood control projects were economically justified and enjoyed substantial local support. Major General E.R. Heiberg III, Director of Civil Works in the Office of the Chief of Engineers, identified 12 projects for which the Corps sought cost-sharing arrangements with states and local communities.

Of these, the project to deepen Baltimore Harbor seemed closest to resolution on the cost-sharing issue. In late May 1982, President Reagan asked Congress to approve nine of these projects, the first time in three years that new project authorizations had been requested. However, the nonfederal burden was considerable. Local interests would pay 79 percent of the bill for these projects, whereas under earlier formulas they would have contributed only about 13 percent. The total bill for the projects would be \$982 million.<sup>90</sup>

In fact, the appropriate nonfederal share of water project expenses was the key water policy issue facing the administration. The federal government had fully funded the construction of most Corps of Engineers flood control projects since 1938 and historically had paid the full cost of rivers and harbors navigation projects, so any cost-sharing proposal was bound to elicit protests. Certainly, switching the burden entirely onto the

shoulders of states and communities was both economically and politically unrealistic. What then should be the appropriate formula? Neither economics nor politics yielded an easy answer. Under such conditions, any formula, no matter how arbitrary, had the virtue of at least providing a starting point for discussion. Fortunately, Secretary Gianelli knew someone willing and able to prescribe new cost-sharing medicine for Congress, a reluctant patient indeed.

Robert Eiland had been in the water business since 1939 and had worked for Gianelli in the California State Water Office. A professional engineer, Eiland had the ability to succinctly evaluate water project plans in terms of both sound engineering criteria and political realities. With Gianelli, he had diligently worked to obtain financing for the California State Water Project. When Gianelli came to Washington, he asked Eiland to help him out, and Eiland came as the Secretary's special assistant. One of the first assignments Eiland had was to prepare new cost-sharing proposals.<sup>91</sup>

There was no obvious place for Eiland to start. He asked Steve Dola, one of Gianelli's deputies, for advice, and Dola recommended that he look at the section 80 study done by the Water Resources Council. That study suggested that local interests historically had contributed about 19 percent (including lands, easements, and rights-of-way) to the cost of federal flood control projects. Eiland recognized that the administration would never accept such a low figure, so he doubled it to 38 percent and

finally rounded it off to 35 percent. "You know," he later said, "it wasn't completely picked out of the air, but it only took one afternoon."<sup>92</sup> Other cost-sharing proposals followed. The final breakdown looked like this:<sup>93</sup>

#### Percentage of Nonfederal Financing

|                                    | Proposed | Existing |
|------------------------------------|----------|----------|
| Hydroelectric power                | 100      | 100      |
| Municipal and industrial water     | 100      | 100      |
| Flood control                      | 35       | 19       |
| Separable recreation               | 50       | 50       |
| Commercial navigation (deep draft) | 75       | 5        |

The proposals were small steps toward compromise. Rather than 100 percent nonfederal financing of deep-draft navigation, only 75 percent would be required. Rather than nonfederal flood control contributions of 50 percent or more, the new proposals called for "only" 35 percent (or the cost of lands, easements, and rights-of-way, whichever was greater). On the other hand, states and communities were expected to contribute their share "up front," before construction began. This approach, euphemistically called "innovative financing" by Gianelli, was an obvious attempt to reduce "pork" and relieve strains on the federal budget.

Gianelli candidly discussed cost-sharing changes with potential sponsors, frankly advising them to "consider all options open to them, including that of not participating."<sup>94</sup> However,

at the same time he worked to change the lengthy Corps planning process to make cooperation with the federal government more attractive. As a former head of a state water office, he had developed a high opinion of the Corps' technical expertise but occasionally had been frustrated by a process that seemed cumbersome and unresponsive. His experience as Assistant Secretary reinforced his concerns, and he was determined to do something about it.<sup>95</sup>

Actually, the Corps had independently reached some of the same conclusions as had Gianelli. Both Major General Heiberg and Lieutenant General Joseph K. Bratton, the Chief of Engineers, wanted to reduce the time necessary to plan a project. In February 1981, before Giannelli had become Assistant Secretary, they briefed Congress on a new program to do just that. Called the Continuation of Planning and Engineering Studies or CP&E, the program allowed the Corps to continue to plan for construction while the District's preauthorization report underwent Washington level review and congressional examination. Formerly, the Corps did little meaningful work on a project between the time a District submitted its preauthorization study and the date when Congress actually authorized the project, a period usually stretching into years. The new approach could reduce significantly the time between project authorization and the beginning of construction since many of the engineering and planning studies would be done prior to congressional authorization. Of course, should the District's recommendation be reversed during the administrative review

process, work on the project studies would cease. Initially, the Corps placed 16 projects in the CP&E category that were economically justified, free of substantive environmental controversies, and of high priority.<sup>96</sup>

Major General Heiberg also worked to upgrade the stature and visibility of Corps civil works planners. Working with his Chief of Planning, Lewis Blakey, he encouraged Districts to establish separate planning divisions, rather than allowing planning to be subordinated to the Engineering Divisions. He wanted the planning chief to report directly to the District Engineer and to have the same grade as the engineering chief. At the same time, Heiberg and Blakey attempted to decentralize the planning process, so that more decisions would be made at the lowest level of authority.<sup>97</sup>

While the CP&E program dovetailed nicely with Gianelli's philosophy, the new Assistant Secretary was less supportive of Heiberg's decentralized planning approach. He was not fundamentally opposed to decentralization, especially if it resulted in the early elimination of uneconomical projects, but he questioned the Chief of Engineers' ability to ensure that policy established at the Washington level was uniformly applied in regional Corps offices around the country. Moreover, he wished to establish a procedure that allowed him to review quickly controversial issues that arose at the operational level, i.e., the Districts. As the Secretary put it, "I have felt all along that the Chief's office and even the Divisions have delegated perhaps too much authority to the Districts without an opportunity to



review."<sup>98</sup> For both budgetary and political reasons, the Secretary saw the need for a Washington-level review of sensitive or borderline projects.<sup>99</sup>

Divergent experiences dictated the differences in Heiberg's and Gianelli's approaches. As a former District Engineer in New Orleans, Heiberg had decided that planning had been hamstrung by unnecessary oversight from higher authorities. On the other hand, as a former state water planner, Gianelli had been irked at the seeming inability of the Corps to develop consistent, standardized approaches to major policy questions. Beyond dissimilar experiences were differences in priorities. Heiberg tended to see planning from the engineer's point of view. Gianelli was naturally more sensitive to administration philosophy. While technical engineering decisions could be delegated to lower levels, complex and subtle political questions required administration oversight. Yet, these differences can be exaggerated. Both men wished to make planning more efficient and economical and both wanted to develop a system that led to the earliest possible beginning of project construction.

Echoing the thought of Theodore Burton three-quarters of a century earlier, Gianelli believed cost sharing would also help weed out borderline projects. At his direction, the Corps established a two-phased planning process. The federal government paid for the first, or reconnaissance, phase. If this phase showed that further study was appropriate, the nonfederal interests were required to share the costs, on a 50-50 basis, for the second phase

(a feasibility study). The Secretary thought that the cost-sharing requirement would prove both the political commitment and financial viability of the nonfederal partner.<sup>100</sup> Of course, the additional cost-sharing requirement for actual construction also would have a sobering effect on nonfederal interests. What annoyed Gianelli was the amount of time the Corps spent on plans for projects that had little or no chances of actual realization. He had the Corps prepare a report that showed that from 1973 to 1981, 258 of 462 studies resulted in unfavorable reports. Of the 204 remaining favorable reports, only 38 actually were authorized, and of those authorized only 13 were constructed.<sup>101</sup> Gianelli would not tolerate such a waste of money. As Blakey said, "Bill Gianelli would say that the planning process should focus on projects." Spending money on studies for projects in which it was obvious there would be no legitimate federal interest "was a waste of federal funds."<sup>102</sup>

However, Gianelli wanted to free sound projects from unnecessary red tape. He desired to accelerate project construction by making substantial changes in the old Principles and Standards (P&S), published in 1973. He also thought the Water Resources Council was a "major bottleneck" in the processing of reports and should be eliminated.<sup>103</sup> In both areas, his objectives were realized. With Secretary of the Interior Watt's strong encouragement, President Reagan stopped all funding for the Water Resources Council in 1982, in effect dismantling the council.<sup>104</sup> Subsequently, conservative Republican congressmen

such as Wyoming legislators Senator Malcolm Wallop and Representative Richard Cheney worked to quash congressional efforts to reconstitute the council, agreeing with the administration position that such an organization was unnecessary and inefficient. Questions that had earlier been debated within the Water Resources Council (and the Council on Environmental Quality) were considered in the newly formed ad hoc Cabinet-level Council on Natural Resources and the Environment. President Reagan also formally approved the administration's Principles and Guidelines (P&G) in March 1983. These guidelines differed in several significant ways from the P&S. Gianelli believed the most important departure was that the P&G eliminated the requirement for the preparation of the most environmentally attractive plan for every project; often the most environmentally appealing was neither economically nor politically feasible. Unlike the P&S, which stressed the twin requirements of environmental quality and national economic development, the P&G clearly established the latter as the primary objective. Gianelli foresaw that reducing paperwork would move project plans along faster.<sup>105</sup>

It is worth noting that the Principles and Guidelines hardly ignored environmental matters. According to Secretary Watt, the P&G provided for more accurate benefit-cost analyses, with equal consideration of economic, social, and environmental factors. By replacing the Principles and Standards, Watt maintained, the Reagan administration eliminated "cumbersome and unnecessary regulations [which] have hampered our ability to identify and recommend

economically and environmentally sound water projects that are vital to the economic growth of our nation."<sup>106</sup> Essentially, the recommended plan was to be the one that offered the greatest net economic benefit consistent with protecting the environment, unless the Secretary of a department or the head of an independent agency granted an exception based on overriding local, state, national, or international concerns.<sup>107</sup>

Although these planning initiatives were important, the heart of the administration's water resources program remained cost sharing. Few were sanguine about success on this elusive issue. By mid-1983, according to one report, cost sharing had "become as popular on Capitol Hill and in the ranks of the Reagan Administration as an outbreak of the mumps."<sup>108</sup> Clearly, any success depended on finding a compromise with Congress. While the Republican-controlled Senate provided few insurmountable problems, the Democratic-controlled House was a gigantic obstacle. Any chances of compromise depended on the House Subcommittee on Water Resources of the Public Works and Transportation Committee. Both the full committee and the subcommittee were unusually homogeneous. Subcommittee minority leader Arlan Stangeland of Minnesota maintained that it was "almost impossible to discern the difference in the Public Works Committee between what is a Republican and what is a Democrat. The Public Works Committee is probably the most bipartisan committee of Congress."<sup>109</sup> Congressman Roe, who chaired the subcommittee, described its work as "totally, absolutely unequivocally" bipartisan.<sup>110</sup> All evidence

substantiates Roe's characterization; partisanship was not an issue. The subcommittee and its staff worked long hours and in general harmony to draft the complex legislation. Administration officials appearing before the subcommittee found the congressmen generally united in their quest for a meaningful bill.

There were, however, differences in priorities and outlooks. In particular, Congressman Edgar became the environmental community's voice on the subcommittee. As such, according to Roe, Edgar performed a valuable service. He acted as the "bellwether" on environmental issues and "by taking the adversary position that he did, helped us to formulate a better balance environmentally, in fact, a much superior balance environmentally."<sup>111</sup> Probably less congenial for Roe was Edgar's position on procedural matters. Edgar wanted to divide legislation into titles according to specific issues and to consider future omnibus legislation only every four years. The idea was to allow congressmen more time to examine each issue, whether it be project authorizations, funding, or policy reforms. Omnibus legislation, according to Edgar, "was just too much on the table to deal with. [Congressmen] would rather just take the word of the chairman than get into the nitty-gritty details."<sup>112</sup>

Roe's idea was quite different. He wanted to develop compromise legislation on cost sharing, but to do that he believed it necessary to draft a comprehensive bill that would cover everything from navigation user fees to recreation fees, from flood control cost sharing to coastal engineering cost sharing. The

philosophy was simple. In a time of expanding federal deficits and ever-increasing demands on the federal budget, no one's projects were untouchable. Ports, conservation and flood control districts, city and state governments, waterway interests and environmentalists all had to work together. Roe was more interested in achieving compromise on projects and programs than in introducing fundamental reforms. Along with others, he worked to develop a national coalition to promote omnibus water resources legislation. In Congress, this took the form of a National Water Alliance, a bipartisan group that eventually included business, industry, and environmental organizations. Senator Dennis DeConcini of Arizona took the lead in establishing the organization. The National Water Alliance was not a particularly effective lobbying organization; its purpose was more to stimulate discussion and develop new approaches. Yet, its message was clear: if you want projects, come to the conference table and be prepared to discuss cost sharing. Otherwise, the water projects drought will continue.<sup>113</sup>

By the beginning of 1983, major developments had occurred in water resources legislation, although most associated with the process felt more frustration than satisfaction because of the many steps still ahead. Perhaps the most important development was the administration's recognition that executive branch orders and reorganization schemes were not the answer to the problems besetting federal water developers. Any lasting solution required congressional cooperation. Congress itself took pains to remind

executive departments of this. In reports accompanying the fiscal year 1982 Supplemental Appropriations Act, both the House and Senate Appropriations Committees directed that "no cost sharing or innovative financing proposal be implemented until the Congress fully considers and authorizes such a plan."<sup>114</sup> The bill had been vetoed by President Reagan because it contained projects that did not meet administration guidelines--notably a Yatesville, Kentucky, flood control project and the Tug Fork flood control project on the Kentucky-West Virginia border--but the veto was subsequently overridden.<sup>115</sup>

Omnibus legislation was the key to success, but, before its various parts could be woven into a whole, specific issues and affected constituencies needed to be identified and addressed. In general, single-issue constituencies increased their strength in order to mobilize opinion on specific funding proposals, while large umbrella organizations, such as the Water Resources Congress, lost power as their members--including inland waterway interests, ports, and flood control districts--concentrated on preserving parochial prerogatives and subsidies. In the face of budget constraints and potentially dramatic changes in water resources planning, this splintering was natural. However, it had the paradoxical effect of forging coalitions and compromises before any new federal water policy could be put in place.

## NOTES

1. Cited in the Conservation Foundation, America's Water: Current Trends and Emerging Issues (Washington, DC: The Conservation Foundation, 1984), p. 78.
2. Marc Reisner, Cadillac Desert: The American West and Its Disappearing Water (New York: Viking, 1986), pp. 318-319. See also, James Nathan Miller, "Bitter Battle of the Waterways," The Reader's Digest 111 (September 1977): 83-87.
3. Quoted in Miller, "Bitter Battle of the Waterways," p. 83.
4. Quoted in Walter Pincus, "When a Campaign Vow Crashes Into a Pork Barrel," Washington Post, 1 April 1977.
5. Quoted in Tim Palmer, Endangered Rivers and the Conservation Movement (Berkeley: University of California Press, 1986), p. 199.
6. Washington Post, 2 January 1977; *ibid.*, Pincus, "When a Campaign Vow Crashes Into a Pork Barrel."
7. Palmer, Endangered Rivers, p. 199.
8. White House Press Secretary, "Statement on Water Projects," 18 April 1977, file III (Civil Works Reorganization Files), folder 265, OH, HQ USACE.
9. Quoted in Reisner, Cadillac Desert, pp. 329-330.
10. *Ibid.*; New York Journal of Commerce, 16 June 1977.
11. Christian Science Monitor, 27 October 1977; Reisner, Cadillac Desert, pp. 330-332; Jimmy Carter, Keeping Faith: Memoirs of a President (New York: Bantam, 1983), p. 79.
12. Carter, Keeping Faith, p. 79.
13. T.R. Reid, Congressional Odyssey: The Saga of a Senate Bill (New York: W.H. Freeman and Co., 1980), p. 12.
14. *Ibid.*, p. 2. For a general legislative history of the user-charge issue, see U.S., Senate, Committee on Environment and Public Works, A Legislative Background of the Waterway User Charges Legislation During the 95th Congress, 95th Cong., 2d sess., 1978.
15. For the maneuvering and deals that accompanied the bill's progress toward the Senate floor, see *ibid.*, pp. 16-68.



16. Wall Street Journal, 23 June 1977.
17. Reid, Congressional Odyssey, p. 79.
18. Ibid., pp. 79-83.
19. Ibid., pp. 91-92.
20. Ibid., pp. 96-97.
21. Ibid., pp. 97-100.
22. Ibid., pp. 105-106.
23. Ibid., pp. 121-128.
24. Quoted in Palmer, Endangered Rivers, p. 204.
25. Ibid., pp. 204-205; Reisner, Cadillac Desert, p. 333.
26. Quoted in Palmer, Endangered Rivers, p. 205.
27. This story is pieced together from interviews with Robert Edgar, 29 February 1988, and Lester Edelman, 7 January 1988. In 1978, Edelman was the Legal Counsel of the House Public Works and Transportation Committee.
28. Palmer, Endangered Rivers, p. 205.
29. Interview with John Doyle, 15 January 1988.
30. White House Press Secretary, 6 June 1978 (Message to Congress on Water Policy Initiatives), reprinted as appendix A in U.S. Department of the Interior, Final Report on Phase I of Water Policy Implementation (Washington, DC: 6 June 1980), p. A-1.
31. Carter to the chairman of the Water Resources Council, 12 July 1978, as reprinted in *ibid.*, p. B-14; Palmer, Endangered Rivers, p. 203.
32. White House Press Secretary, "Water Policy Message: Detailed Background," 6 June 1978, as reprinted in Department of the Interior, Final Report, p. C-10.
33. Daniel McCool, Command of the Waters: Iron Triangles, Federal Water Development, and Indian Water (Berkeley: University of California Press, 1987), p. 197.
34. Quoted in Palmer, Endangered Rivers, p. 204.

35. American Society of Civil Engineers, Water Policy Initiatives: Positions of the National Water Policy Committee of the American Society of Civil Engineers on the President's June 1978 Statements (New York: American Society of Civil Engineers, 1979), pp. 1-22.
36. National Governors' Association Position on National Water Policy (February 1978), in binder on "Intergovernmental Water Policy Task Force," 12 December 1978 Meeting at the White House, Tab G, OH, HQ USACE.
37. Macon, Georgia Telegraph, 22 June 1977.
38. Patrick Moynihan, "Foreword," Who Runs the Rivers: Dams and Decisions in the New West, edited by Barbara T. Andrews and Marie Sansone (Stanford: Stanford Environmental Law Society, 1983), pp. 6-7.
39. Interview with Lieutenant General Ernest Graves, USA (Retired), by Frank N. Schubert (February-April 1985), pp. 54-56. Transcript in OH, HQ USACE.
40. Quoted in Reisner, Cadillac Desert, p. 342.
41. For correspondence between the Secretary of the Army and the Director of the Office of Management and Budget regarding the organization proposals, see Box III-26A, folder 3, OH, HQ USACE.
42. For more on this, see Randall B. Ripley and Grace A. Franklin, Congress, the Bureaucracy, and Public Policy (Homewood, Illinois: The Dorsey Press, 1984), pp. 113-117.
43. Palmer, Endangered Rivers, pp. 205-206; Jeanne Nienaber Clarke and Daniel McCool, Staking Out The Terrain: Power Differentials Among Natural Resource Management Agencies (Albany: State University of New York Press, 1985), p. 26.
44. George Brown Tindall, America: A Narrative History, 2d edition, 2 vols. (New York: W.W. Norton, 1988), II, p. 1447.
45. Garry Wills, Reagan's America (New York: Penguin Books, 1987), p. 429.
46. Robert V. Bartlett, "The Budgetary Process and Environmental Policy," in Norman J. Vig and Michael E. Kraft, eds., Environmental Policy in the 1980s: Reagan's New Agenda (Washington, DC: CQ Press, 1984), p. 121.
47. Ibid., p. 123.
48. Tindall, America, II, pp. 1449-50.

49. Testimony of Major General Elvin R. Heiberg III, Director of Civil Works, in Proposed Water Resources Development Projects of the U.S. Army Corps of Engineers, Hearings, p. 60.
50. Both quotes as cited in Palmer, Endangered Rivers, pp. 206-207.
51. Martin Reuss (interviewer), Water Resources People and Issues: An Interview with William R. Gianelli (Fort Belvoir, Virginia: Office of the Chief of Engineers, 1985), p. 1.
52. Brad Knickerbocker, "Water Projects Under Reagan: Down, Then Up," Christian Science Monitor, 3 March 1981.
53. Reisner, Cadillac Desert, p. 342.
54. Reuss, Gianelli, p. 21.
55. Harry N. Cook, President, National Waterways Conference, Inc., to Conference Members and Friends, "Special Memorandum," 27 March 1981, National Waterways Conference (NWC) file, OH, HQ USACE. Unfortunately, David Stockman declined to be interviewed for this history.
56. Reuss, Gianelli, p. 11.
57. Gianelli to the Honorable George Bush, President of the Senate, 15 July 1981 (copy), NWC file, OH, HQ USACE; Gianelli to Stockman, 2 November 1981 (copy), Gianelli file, OH, HQ USACE; U.S., Council on Environmental Quality, Environmental Quality 1981: 12th Annual Report (Washington, DC: Council on Environmental Quality, n.d.), p. 156.
58. Congressional Record, 97th Cong., 1st sess., vol. 127, no. 58, 8 April 1981, reprint in NWC file, OH, HQ USACE; Reisner, Cadillac Desert, p. 342; Judy Allen, "Water Fees Sought," Council Bluffs, Iowa Nonpareil, 15 July 1981; S. 809, 97th Cong., 1st Sess; and amendment no. 31 to S. 809, 8 April 1981.
59. U.S. Congress, House, Committee on Public Works and Transportation, Port Development, Hearings, 97th Cong., 1st sess., 16 June 1981, p. 472.
60. Ibid., pp. 477-478; and testimony of Don Welch, President of the AAPA, p. 482. See also Henry S. Marcus, James D. Short, John C. Kuypers, and Paul O. Roberts, Federal Port Policy in the United States (Cambridge: MIT Press, 1976).
61. National Waterways Conference, Inc., Newsletter, 18 May 1981, p. 3 (cited hereafter as the NWC Newsletter).
62. Testimony of Don Welch in Port Development, Hearings, 16 June 1981, p. 482.

63. Congressional Budget Office, Efficient Investments, p. 32.
64. Testimony of Ron Brinson in Port Development, Hearings, 16 June 1981, p. 477; H.R. 4627, 97th Cong., 1st sess.
65. Port Development, Hearings, 14 July 1981, p. 1048.
66. Ibid., 15 June 1981, pp. 1104-05.
67. Transcript, interview with Congressman Robert Roe by Martin Reuss, 9 March 1988, p. 13.
68. Transcript, interview with Thomas Skirbunt, staff member, Senate Environment and Public Works Committee, 11 January 1988, p. 27.
69. Transcript, interview with Jeffrey Arnold, formerly with Senator Mark Hatfield's staff, 17 February 1988, p. 5.
70. Ibid., p. 9.
71. Ibid., pp. 10-14.
72. "Text of Legislation Drafted by Corps of Engineers at OMB Direction to Recover O&M Costs Through a Fuel Tax Effective July 1, 1981, and Future Construction Costs Through Various User Charges," NWC files, OH, HQ USACE.
73. Gianelli to the Honorable George Bush, 15 July 1981; National Waterways Conference, Inc., Washington Watch, p. 1 (both in NWC files, OH, HQ USACE). The revised legislation was introduced as H.R. 4846 on 27 October 1981.
74. Cited in NWC Newsletter, 28 July 1981, p. 1.
75. Ibid., pp. 2-3.
76. Washington Watch, 21 August 1981, pp. 1-2.
77. NWC Newsletter, 11 December 1981, pp. 1-2.
78. Cited in ibid., p. 2.
79. Ibid., p. 6; Allen, "Waterways Fees Sought," 15 July 1981.
80. The study's official title was Inland Waterway User Taxes and Charges: Report of the Secretary of Transportation to the United States Congress Pursuant to Section 205, Public Law 95-502, the Inland Waterway Revenue Act of 1978.
81. Washington Watch, 18 January 1982, pp. 2-3.

82. Cited in Washington Watch, 12 February 1982, p. 2.
83. U.S. Congress, Senate, Environment and Public Works Committee, Waterway User Fees, Hearings, 97th Cong., 2d sess., 10 February 1982, p. 13; Washington Watch, 12 February 1982, pp. 2-3.
84. Waterway User Fees, Hearings, 10 February 1982, p. 34.
85. Ibid., p. 35.
86. Rivlin to Senator Abdnor, 5 April 1982, reprinted in ibid., p. 87.
87. Washington Watch, 26 March 1982, p. 10.
88. George Hager, "Administration Skunked on Waterway User Fees," New Orleans Times Picayune, 21 February 1982.
89. Washington Watch, 12 February 1982, p. 12.
90. Memorandum for the Record, "Meeting with the State of Maryland on the Baltimore Harbor 50' Project to Discuss Cost Sharing," by Robert Eiland, 8 January 1982, Gianelli files, OH, HQ USACE; Nelson Antosh, "U. S. Water Projects Will Be Scaled Back," Houston, Texas Chronicle, 3 February 1982; "Notes of Meeting--1983 New Starts, March 1, 1982," by Robert Eiland, 2 March 1982, Gianelli files, OH, HQ USACE; "Cost-Share Pacts Unleash Nine Corps Water Projects," Engineering News Record, 3 June 1982.
91. Transcript, interview with Robert Eiland by Martin Reuss, 21 January 1988, pp. 1-10.
92. Ibid., p. 23.
93. U.S. Congress, House Committee on Public Works and Transportation, Proposed Water Resources Development Projects of the U.S. Army Corps of Engineers, Hearings, 97th Cong., 2d sess., 8 June 1982, p. 29.
94. "Cost-Share Pacts Unleash Nine Corps Water Projects," Engineering News Record, 3 June 1982.
95. Reuss, Gianelli, p. 3. The review process that aggravated Gianelli involved not only review within the Corps but public, OMB, congressional, and Department of Army reviews.
96. U.S. Congress, Senate, Committee on Appropriations, Energy and Water Development Appropriations for Fiscal Year 1982, 97th Cong., 1st sess., 3 February 1981, pp. 10, 21-22, 50, 184-185. By direction of the Acting Assistant Secretary of the Army, Civil Works, the funding for CP&E studies was taken out of the "General Investigation" category after 30 September 1985 and included in

total project costs, similar to Advanced Engineering and Design (AE&D) costs. See Robert K. Dawson, Acting Assistant Secretary of the Army (Civil Works) to the Director of Civil Works, subj: Cost Sharing for Continuation of Planning and Engineering (CP&E), 13 August 1985 (copy), WRDA-86 files, OH, HQ USACE.

97. Transcript, interview with Lieutenant General E. R. Heiberg III, Chief of Engineers, 7 January 1988, pp. 12-15.

98. Reuss, Gianelli, p. 72.

99. Ibid.

100. Proposed Water Resources Development Projects, Hearings, 8 June 1982, pp. 13-14.

101. Ibid., pp. 19-20.

102. Transcript, interview with Lewis Blakey, 12 January 1988, p. 20.

103. Reuss, Gianelli, p. 55.

104. Palmer, Endangered Rivers, pp. 206-209.

105. Proposed Water Resources Development Projects, Hearings, 8 June 1982, p. 27.

106. Quoted in Theodore M. Schad, "Present Policies and Practices," Social and Environmental Objectives in Water Resources Planning and Management, edited by Warren Viessman, Jr. and Kyle E. Schilling (New York: American Society of Civil Engineers, 1986), p. 16.

107. Ibid., p. 17.

108. National Journal, 23 July 1983, p. 1559, as cited in McCool, Command of the Waters, p. 202.

109. Transcript, interview with Congressman Arlan Stangeland, 18 February 1988, p. 9.

110. Transcript, Roe interview, p. 17.

111. Ibid., p. 18.

112. Transcript, Edgar interview, pp. 27-28.

113. Transcript, Roe interview, pp. 6-7; Washington Watch, 7 May 1982, pp. 4-5, and 30 July 1982, p. 5; James J. Magner, "The National Water Alliance: A United Framework for Regional Concerns," in Freshwater Foundation, Water Management in Transition

1985: A Special Report by the Freshwater Society (Navarre, Minnesota: The Freshwater Foundation/Society, 1985), pp. 58-60.

114. Cited in Washington Watch, 8 October 1982, p. 3.

115. Ibid.

### III

#### COALITIONS AND COMPROMISES

Alice Rivlin said it best. If Congress continued business as usual, it would either develop an enormous backlog of projects or end up funding projects despite large federal deficits. If, on the other hand, the nonfederal share of water project costs were increased, eventually leading to more cost-effective investments (the so-called "market test" principle), significant financial burdens would be placed on the less financially sound states. She pointed out that while the states' capability to finance projects had increased in recent years, often the additional revenue came from income and sales taxes rather than from "relatively static sources, such as property and excise taxes." That meant that receipts were tied closely to economic performance. A recession could mean real trouble. Nevertheless, she continued to advocate a greater nonfederal share in the cost of water projects. To ease the burden, Rivlin thought that a gradual, phased increase of nonfederal costs should be considered.<sup>1</sup>

What Congress sought was a new relationship with the states that would shift the economic burden. What it could not give to the states was commensurate project management because in the end the management of construction schedules and the development of priorities depended on regional and national economic health.



Without a reliable source of income, nonfederal interests could not build regardless of their needs or the level of federal involvement. Hence, the amount of oil pumped in Louisiana or the number of cars produced in Detroit influenced public works activities more than all the spreadsheets in the country.

As Rivlin pointed out, various interest groups also would have trouble shouldering additional financial burdens. These included farmers and agricultural users, ports and harbors, navigation companies, hydroelectric power recipients, and water-based recreation beneficiaries. In 1981-1983, many of the single-interest groups mobilized to fight increased nonfederal funding. They organized ad hoc groups that at first resolutely, and unrealistically, opposed any changes in cost-sharing. Umbrella organizations such as the Water Resources Congress lost members to these single-issue groups.<sup>2</sup> Only gradually did these new advocacy organizations acknowledge that total resistance was futile if needed projects were to be built.

The Interstate Conference on Water Problems (ICWP), an organization composed primarily of state water offices, reflected the slow and painful acceptance of greater cost sharing. In 1982, Joan Kovalic, Executive Director and General Counsel of the ICWP, saw little evidence of compromise among its members. She attempted to convince them that their position was self-defeating: ". . . you can't stand in front of a train and jump up and down while it runs you over. You can step over to the side of the track and wave as it goes by, or you can jump on the train and see if you can get

your hands on one of the controls and have something to say about where the damn thing goes."<sup>3</sup> Despite heavy criticism, Kovalic proposed and subsequently held a cost-sharing seminar for members in which she attempted to convince participants to talk with Congress, the Corps of Engineers, and others. She also advised members to seek financing from the private sector. "Why don't we start talking to people who play with money for a living?" she inquired.<sup>4</sup> Much of her success depended on working closely with individual members to find a cost-sharing compromise to break the legislative logjam. Gradually, members changed their attitudes.<sup>5</sup>

While nonfederal interests had to accept cost sharing, the administration worked to devise a formula that recognized local and state financial constraints. The Office of Management and Budget considered numerous formulas, and rumors were rife.<sup>6</sup> Secretary Gianelli attempted to work through the Cabinet Council on Natural Resources and the Environment, whose purpose was to coordinate environmental policy in the various executive departments. However, Gianelli was stymied by James Watt, who chaired the council. Unlike Gianelli, who sought uniform formulas according to project purposes, Watt wished to determine cost sharing on a case-by-case basis, the approach traditionally used by Interior's Bureau of Reclamation and the one favored by western states.<sup>7</sup>

Gianelli had formed a working group of assistant secretaries from selected executive agencies. These representatives sorted out cost-sharing ideas and presented recommendations to the full Cabinet Council. In the summer of 1982, the Cabinet Council had

approved the recommendations for 100 percent cost sharing for hydropower and water-supply projects--which was essentially the current policy and law--and no less than 35 percent for flood control and reclamation (agricultural water). However, Watt continued to oppose this uniform approach. He leaked the recommendations, successfully generating opposition to them, but refused to send them to the President for final approval. In January 1983, the Cabinet Council decided to solicit public comment before sending the recommendations to the White House. A notice was put in the Federal Register and Secretary Watt wrote all the state governors.<sup>8</sup> Subsequently, Gianelli's working group discussed the public comments, and Gianelli recommended that the Cabinet Council affirm the earlier recommendations. In April, he finally obtained administration (OMB) endorsement for these proposals so far as regarded the Corps of Engineers. The chairman of the Senate Environment and Public Works Committee, Senator Robert T. Stafford of Vermont, introduced the necessary legislation (S. 1031) on the administration's behalf.<sup>9</sup> In June 1983, Secretary Watt finally sent the Cabinet Council proposals to the President with the recommendation that they be publicized as interim policy pending discussions with Congress.<sup>10</sup> Supported by the Department of Interior, the Army Corps of Engineers, and OMB, the recommendation essentially bought more time until agreement could be reached with Congress.

Controversy continued in both the legislative and executive branches. Although the Department of Interior officially supported

the use of the new cost-sharing proposals as interim guidance, it was not enthusiastic. Its Bureau of Reclamation remained opposed to the cost-sharing formula regarding agricultural water, causing ongoing dissension within the administration.<sup>11</sup> On 27 April, Senator Paul Laxalt of Nevada, joined by 14 other western Republican senators, had written the President to object to up-front cost sharing on an across-the-board basis. The group concluded that "we have nothing to gain politically or fiscally from moving on the issue of cost-sharing at this time."<sup>12</sup> Within the Cabinet Council, Laxalt was of course supported by Watt and also by White House counselor Edwin Meese III, both advocates of the case-by-case approach. Most of the rest of the Cabinet Council supported Gianelli's position.

Laxalt's letter precipitated further correspondence on the subject of cost sharing. Senator Abdnor agreed that nothing would be gained by pushing for arbitrary cost-sharing percentages. However, additional nonfederal revenue was necessary. Abdnor's concern was how to get the funding without penalizing those nonfederal interests who clearly could not afford to pay. Gianelli clarified a point that Laxalt had raised about "up-front financing." The Secretary pointed out that the administration's position was not that states be required to pay a percentage of costs prior to construction, but that states and other project beneficiaries agree to pay costs during the time of construction.<sup>13</sup> In response to Senator Abnor's concern, the administration formulated a position that only flood control, rural

drainage, and agricultural water-supply projects merited consideration of ability to pay.<sup>14</sup>

The Office of Management and Budget faced the task of drafting a response for President Reagan to send to Senator Laxalt. The assignment generated intense discussion over the following months. Eventually, OMB personnel crafted a letter that allowed the various sides to claim victory. Toward the end of January 1984, the letter reached Laxalt. In it, the President emphasized that each federal water agency "will negotiate reasonable financing arrangements for every project within its respective area of responsibility." States, the President maintained, have the primary responsibility for water resources development and management, but prior federal commitments "must be considered and shall be a factor in negotiations leading up to project construction." Reagan noted that cost sharing, including planning costs, must be negotiated but that "project beneficiaries, not necessarily governmental entities, should ultimately bear a substantial part of the cost". The letter also called for consistency in cost sharing for individual project purposes.<sup>15</sup> Thus, while the administration embraced state primacy in water resources development and sought additional cost sharing applied uniformly according to project purposes, it did not disavow previous federal commitments or the case-by-case approach of the Bureau of Reclamation. Although the letter could be interpreted as a victory for the Department of Interior, others preferred to emphasize the President's support of uniform cost sharing and thought the outcome was a victory for Gianelli.<sup>16</sup>

While the administration focused on cost sharing, congressmen continued to submit authorization bills for rivers and harbors projects. A number were dropped into the hopper in the winter and spring of 1983. On 24 March, Senator Abdnor introduced S. 947 to authorize 101 water projects, but also to put a ceiling on Corps of Engineers construction activities for the next five years. Noticeably absent was any mention of cost sharing. Frustrated by the impasse, Abdnor wanted to establish a two-track system leading to an omnibus water resources act. By separating funding policy from project authorization, he could hold hearings on projects without being distracted by the continuing cost-sharing stalemate.

While Abdnor concentrated on projects, other senators from seacoast states sought to break the impasse on funding deep-draft harbor improvements. On 21 March 1983, several of these senators introduced S. 865, the Deep-Draft Navigation Act of 1983. The principal architect was Senator Hatfield, who was concerned about improvements on the lower Columbia River. He received strong support from Senators John Warner of Virginia, Mack Mattingly of Georgia, and Strom Thurmond of South Carolina. For several months, Hatfield's staff, principally his legislative aid Jeff Arnold, had been working with other senators' staffs to devise an ad valorem deep-draft port recovery bill. In an effort to develop a compromise acceptable to both the administration and port authorities, Arnold also worked very closely with OMB staff and with AAPA personnel. Shipping industry representatives and primary users of deep-draft vessels were also involved. The intense

discussions took many hours, and the bill went through 14 drafts. While no one was completely satisfied with the final version, it did resolve many issues.<sup>17</sup> In fact, Stockman wrote Senators Hatfield and Warner that the final bill appeared "to be a workable compromise, recognizing our policies of Federal fiscal constraints, while at the same time providing the assurance of port maintenance and a framework for authorizing navigation improvements."<sup>18</sup>

The budget director, however, was not entirely happy. He proposed raising cost recovery for federal operations and maintenance work far in excess of the bill's 40 percent level. These costs would be recovered from customs revenues. Stockman also wished to raise the nonfederal share of new construction costs.<sup>19</sup> He stated these reservations in language that was to lead to future misunderstanding and friction between him and Senator Hatfield. "While we agree with the overall thrust and the concepts in your legislation," Stockman wrote, "we do suggest certain changes." Later, the director was to emphasize his suggested changes, causing Hatfield and Warner to claim that he reneged on the compromise.<sup>20</sup> Working with OMB was in fact a gamble, for even OMB support did not guarantee administration approval. Secretary Gianelli remained in favor of a flat cargo tonnage fee--a simpler concept but one opposed by bulk cargo carriers--while the Treasury Department doubted that it could collect ad valorem taxes because of the difficulty of identifying kinds and amounts of domestic and export cargos on outbound ships.<sup>21</sup>

In terms of both legislative history and the actual content of the bill, the evolution of S. 865 is worth analyzing. Hatfield and the other senators were more interested in recovering the costs for maintaining and operating current port facilities than in devising a cost-sharing formula to finance new construction. Part of the reason for this was tactical. Cost sharing for new construction was controversial and involved entrenched and powerful interests. Establishing a consensus on the subject would take much time and effort. Moreover, there was concern that without necessary dredging a number of ports would not be able to remain competitive in the world market.

Establishing a consensus on cost recovery proved difficult. It entailed pitting the small ports--over 150 of them around the country--against the big ports that handled most of the international traffic. The conflict broke the ranks of the AAPA, which opposed any effort to establish fees. The big ports objected to a uniform fee system that would essentially subsidize small ports. They proposed that cost recovery be based on the actual costs incurred in each port. However, Senate staff members eventually persuaded the big ports that a uniform ad valorem fee was better than any alternative then being considered. Other concerns were alleviated when staff personnel pointed out that cost recovery would cost the ports nothing; shippers would pay the fees. Fears that fees would result in increased use of Canadian or Mexican ports in lieu of American ports were shown to be groundless



because of the prohibitive cost of transporting the cargo overland into the United States.<sup>22</sup>

While a number of constituencies were involved, the Senate Environment and Public Works Committee hardly played any role in hammering out S. 865. The Committee staff was purposely excluded because of the opposition of Hal Brayman. One of the most experienced committee staff members in the area of water resources, Brayman had been instrumental in developing Senator Domenici's user fee legislation. However, he opposed the ad valorem cost-recovery bill because he thought it unworkable. He also could have been uneasy about a bill being hatched by a number of young staff members who collectively may not have known as much about water resources as he did.<sup>23</sup>

In a sense, Brayman's intuition was right. When Senator Hatfield introduced S. 865, no one showed enthusiasm. In Arnold's words, "Nobody saluted. Absolutely nobody! Not only did no one in the Senate salute, but when we sent it down for some informal comments to the Administration, everybody and their brother thought we were lunatics. It would never work, could never happen."<sup>24</sup> The bill finally did end up in the Senate Environment and Public Works Committee, where it languished. Senator Abdnor did not oppose it outright, but he was preoccupied with his own water resources legislation and most of the staff members followed suit.<sup>25</sup>

While S. 865 never reached the floor of Congress, in mid-June 1983 Abdnor finally held hearings on deep-draft port development.

His subcommittee heard testimony on S. 865, but it also looked at a new deep-draft port bill, S. 970, sponsored by Senators Moynihan and Stafford. The two bills were substantially different. Hatfield's bill opted for financing 40 percent of operation and maintenance costs through ad valorem fees. Moynihan and Stafford preferred a flat fee based on cargo tonnage, with some 50 percent of O&M costs recovered in this way. The Moynihan-Stafford version was more in tune with Gianelli's thinking, but it continued to be opposed by shippers.<sup>26</sup>

The hearing did nothing to change Abdnor's mind. Clearly, the complex port user-fee legislation issue would have to be considered separately from project authorizing legislation. On 2 August, Abdnor introduced a revised version of S. 947. Unlike the earlier version, this new draft (S. 1739) did not address deep-draft ports since that subject was to be introduced in separate legislation. On the other hand, the new bill did tackle cost-sharing, containing provisions that came close to what Gianelli wanted, including a minimum 35 percent nonfederal share for flood control. The new initiative also would authorize the establishment of a 21-member Inland Waterways Users Board, composed of users and shippers chosen by the Secretary of the Army, to advise the Secretary on spending levels for inland waterways. Another section provided for a ten member Federal Dam Safety Review Board, composed of nonfederal and federal experts, to review procedures and standards and to monitor state dam programs. Retaining an approach introduced in S. 947, Abdnor's draft legislation limited construction expenditures for

the coming five years, with some minor adjustments of the spending caps.

In the late summer and early fall, the Senate Subcommittee on Water Resources rewrote and added to the Abdnor bill. Part of this effort was in response to legislation being considered in Congressman Roe's House Subcommittee on Water Resources, which encompassed a far broader program and more generously dispensed federal dollars. The rewritten Senate legislation, approved 14-2 by the full Environment and Public Works Committee on 7 November, included several significant new titles.<sup>27</sup> Title VIII provided for federal loans to modernize water supply systems. Title IX established a National Board of Water Policy with responsibility to develop federal policies and procedures for water resources development similar to that in the House bill, but with more limited authority to perform studies. Title X provided for a National Commission on Harbor Maintenance, full federal funding for maintenance of harbors 45 feet in depth or less, and 50 percent federal funding for maintaining harbors greater than 45 feet in depth, and empowered nonfederal interests to assess user fees to cover maintenance costs and improvements. The title authorized the Corps to complete any deep-draft harbor projects on which construction had commenced prior to the bill's enactment. It also authorized the Secretary of the Army to guarantee loans or bonds sold to finance deep-draft harbor work. Finally, a number of new construction projects were authorized.

Probably the most controversial sections of S. 1739 were

Titles V (inland waterways) and X (deep-draft ports). In fact, the committee print noted in bold print that Title X was "printed for informational purposes; it remains to be acted upon by the Committee."<sup>28</sup> The idea was to prod the navigation interests to come up with clear, workable alternatives. As Senator Abdnor said during the bill's mark-up, "I think we have been very patient in this. We met with groups constantly . . . I have been waiting for these people to come in. I am not condemning. They claim they have trouble, the users, to get people together. This will make them get together."<sup>29</sup> Senator Stafford scheduled committee oversight hearings for both titles on 24-25 January 1984. Two days of hearings hardly suggested that the committee anticipated major changes in the legislation. Possibly some sort of an amendment could be introduced, but as one committee staff member bluntly put it, "The barge industry at one point is going to have to realize that this is as good a deal as they are going to get."<sup>30</sup>

As with almost all of the water resources bills emanating from Congress, the administration cautiously approached S. 1739. OMB Director Stockman praised the legislation for many "constructive changes in existing programs, notably in the inland navigation program" and expressed interest in the caps the bill put on inland waterway funding. He wrote Abdnor that "the Administration's willingness to accept this concept will depend on the degree to which we conclude that it will lead over time to significantly greater cost sharing with waterways users."<sup>31</sup> One source of

administration unhappiness was that the caps had been raised \$100 million from those Abdnor had proposed the previous March. A senior official commented, "We anticipated more substance. Some of the fruit rotted on the vine."<sup>32</sup> Administration aides were also concerned about some vague portions of the legislation and the bureaucratic apparatus that would be required to administer user-fee and cost-recovery provisions.<sup>33</sup>

While Abdnor refined his bill in the Senate, Congressman Roe was busy with the House Public Works and Transportation Committee. On 3 August, by a vote of 49-0, the committee approved H.R. 3678, which Roe had introduced. The legislation authorized over 150 projects at a cost, according to the committee, of \$12.4 billion. It deauthorized about 325 projects that would have cost about \$11 billion to construct. Like Abdnor's draft, Roe's bill would put a cap on annual Corps construction expenditures, authorize a dam review program, and establish a National Water Resources Policy Board. It also would authorize the Corps to continue its CP&E program for accelerating planning and engineering studies.<sup>34</sup> Although not imposing additional user fees, it did authorize the construction of various deep-draft ports at 100 percent federal cost; establish an inland waterway transportation system, which involved new lock construction; and authorize a number of flood control and shore-protection projects. In addition, the bill authorized a \$35 million environmental project and mitigation fund, and established a National Board on Water Resources Policy to replace the old Water Resources Council. Roe's draft also would

establish a Port Infrastructure Development and Improvements Trust Fund for which up to \$12 billion in customs duties would be appropriated.<sup>35</sup>

While the administration found no lack of defects in the House and Senate bills, it had a more difficult time coming up with an alternative of its own. The reason was partly tactical. One Senate staffer reflected, "They're not going to say anything until the last minute because they will be beaten over the head by somebody no matter what they say."<sup>36</sup> The fact that 1984 was an election year provided an additional incentive to adopt a reserved attitude. However, clearly the administration did not think the nonfederal cost-sharing levels high enough in either the House or Senate bills, and it opposed both single-purpose water-supply projects and expanded federal responsibility for nonfederal dam safety. Also, both bills directed the establishment of binding planning standards for water projects instead of the nonbinding Principles and Guidelines that the administration had endorsed.<sup>37</sup> The Roe legislation particularly roused the administration. In one rambling sentence, a 1984 White House "Statement of Administration Policy" dismissed the bill as "the return of the traditional pork barrel approach to water resource programs, authorizing new water resource programs and construction projects for nearly every congressional district and potentially increasing the total Corps of Engineers' budget over 60% for the fiscal year period 1985-1989."<sup>38</sup> Unclear about its own position, the administration at

least made its opposition to the House legislation explicit and unequivocal.

Uncertainty about administration policy was only one of many problems facing Roe and Abdnor. An especially knotty issue centered on Baltimore and Norfolk harbors. Senator Warner was livid that Baltimore Harbor would have to pay only 30 percent of the costs to deepen the harbor to 55 feet because the subcommittee considered Baltimore a general cargo harbor. In contrast, since Norfolk was treated as a deep-draft harbor, it would have to pay the full cost of a similar deepening project. Staff members indicated this was done so that the rival ports would pay more or less equal amounts. However, this assessment depended on Norfolk port authorities accepting a cheaper alternative than the one they had supported.<sup>39</sup>

Committees on both sides of the Hill expressed an interest in reviewing parts of the legislation that affected their particular legislative areas. For instance, the Senate Finance Committee, headed by Senator Dole, considered reviewing the inland and deep-draft harbor titles because of the revenue-raising aspects of those two measures. The committee was prompted by agricultural interests concerned that user fees would adversely affect farm income and the competitiveness of American commodities on the international market.<sup>40</sup> The Senate Committee on Energy and Natural Resources wished to review sections dealing with the development of coal slurry pipelines, water resources planning procedures, and mitigation. On the House side, the Merchant

Marine, Interior, and Agriculture committees requested time to review various provisions of H.R. 3678.<sup>41</sup>

Meanwhile, across the country numerous constituencies called for action to initiate needed construction projects and maintenance operations. Appropriations committees in both the House and Senate threatened to report out legislation without waiting for passage of authorization legislation. Indeed, in May 1984, the House Appropriations Committee approved a \$15.5 billion fiscal year 1985 energy and water-development bill. It withheld appropriations for new construction pending action by the House Public Works and Transportation Committee. However, its report warned that the committee "fully intends to revisit the issue of new construction in September 1984,"<sup>42</sup> thereby putting the Public Works Committee on notice to accelerate its schedule. The House quickly approved the appropriations bill.

Senator Abdnor sought compromises to boost chances of legislation clearing Congress. His problems were formidable. Farmers opposed any increase in waterway and harbor user charges. Navigation and coal interests joined forces in an attempt to persuade Abdnor to put these user fees under congressional, not administration, jurisdiction and to exclude fuel-tax revenues from the proposed cap on monies to be used for waterway expenditures. That would allow such revenues to be used to pay part of the cost of new projects. The American Waterways Operators suggested that one-third of new project costs could be funded in this fashion. Waterway interests also pushed for the establishment of a



comprehensive navigation financing plan. At the same time, environmental organizations, especially the Environmental Policy Institute, urged stiff increases in user fees.<sup>43</sup> All these pleas came to naught, however, for by the beginning of April Senator Abdnor had decided not to amend his bill in committee. Rather, amendments would come on the Senate floor. This decision may have resulted from fear of not obtaining committee concurrence, but it probably also showed the influence of Hal Brayman, who was more willing to engage opponents head-on. In any case, it put many lobbying groups on the defensive, for the idea of trying to amend the bill significantly in a bruising floor battle was unappealing, especially since Abdnor's bill was gaining senatorial support. Still, little choice was left. Senate debate on S. 1739 was scheduled for early May.

There was a doomsday approach to waterways legislation in 1984. Tom Skirbunt of the Senate Water Resources Subcommittee staff believed that "prospects for the Army Corps of Engineers as an agency would be severely in jeopardy if in fact this bill [S. 1739] doesn't go forward."<sup>44</sup> Appearing before the American Mining Congress at the beginning of May, Senator Abdnor said, "The opportunity to develop an omnibus water resources act in the [next] Congress will be slim to non-existent. In all probability there will not be another opportunity for an omnibus bill for at least three or four years. . . . We are going to have a water bill this year, or we're not going to have one for many years."<sup>45</sup> He promised to entertain "any reasonable suggestion" for amending S.

1739. "Now is not the time for continued stonewalling. It is a time for a serious evaluation not of what we don't want in a bill, but of what is passable, enactable and workable for everyone."<sup>46</sup>

The erratic fortunes of Abdnor's bill went downhill in May. Instead of being considered on the Senate floor, the bill was taken off the May calendar. First, the Senate leadership decided to continue debate on deficit reduction legislation and extending the debt limit. Then the Finance Committee served notice that it wanted a 30-day referral period to consider Titles V and X. Floor action was delayed until at least June.<sup>47</sup>

On the House side, Congressman Roe faced his own problems. Despite the \$12.7 billion price tag of H.R. 3678, passage seemed assured in the House. The problem was that James Howard, a New Jersey colleague of Roe's and chairman of the Public Works and Transportation Committee, gave priority to consideration of clean water legislation on the House calendar. This threatened to delay consideration of Roe's omnibus water legislation until at least July or August.<sup>48</sup> Moreover, while the House Appropriations Committee may have been worried about the slow pace of Roe's subcommittee, Roe was equally concerned about lack of progress in the Senate. "I am here to lobby you," he told port directors at the beginning of June. "We need you to go to the Senate. We want you to use your influence to get the Senate moving." What Roe feared was that his efforts would be in vain if there was not a Senate bill that could "marry up" to H.R. 3678.<sup>49</sup>

In some ways, the referral of Titles V and X to Senator Robert Packwood's Taxation and Debt Management Subcommittee of the Senate Finance Committee proved a blessing in disguise. The threat of another committee intruding on the domain of the Environment and Public Works Committee moved Senator Stafford and his colleagues to produce compromise legislation that proved vital to the eventual passage of a bill. Packwood's subcommittee was concerned about various provisions. In Title V, the senators debated and generally sought modifications of sections 501-503. These sections authorized the Secretary of the Army to determine navigation expenditure needs and to impose user charges to provide necessary funds, established an advisory Inland Waterways Users Board, and deleted the historic prohibition on "tolls or operating charges." Perhaps prompted by Roe, but surely moved as much by their own constituents, the various navigation and shipping interests began chipping away at these provisions. George R. French, Jr., Vice Chairman of the National Waterways Conference, and Joseph Farrell, President of the American Waterways Operators, joined other shipping advocates in proposing amendments to strip the Secretary of the Army of authority to impose user charges. They urged instead that the Secretary's recommendations be forwarded to the House and Senate revenue committees, the appropriate forums to consider the imposition of new taxes.<sup>50</sup> Farrell said, "AWO has serious reservations about any initiative to delegate taxing authority to the Executive Branch," cleverly playing on the senators' own concerns. "Whether referencing fees, taxes, charges

or tolls, we feel that Section 502 violates the Constitution which confers taxing power upon Congress, a pluralistic body which is the people's branch of government."<sup>51</sup> Farrell's statement echoed the attitude of the lead witness, Senator Hatfield, who objected to the delegation of taxing authority to nonelected officials.

The subcommittee hearings for the first time produced an authoritative administration position on S. 1739. Robert K. Dawson, recently appointed Acting Assistant of the Army for Civil Works, had been Gianelli's principal deputy and before working in the Pentagon had worked on the minority staff of the House Public Works and Transportation Committee. Consequently, he was extremely knowledgeable about both administration politics and the legislative process and knew many key politicians. Appearing before the subcommittee on 5 June, Dawson reinforced the administration's tough approach on financing water projects. The administration fully supported a \$35 million reduction in inland navigation expenditures as called for by Senator Alan K. Simpson of Wyoming. Beyond that, Dawson maintained that the cap should be reduced annually until it reached zero. Also, in contrast to Senator Stafford's interpretation, Dawson maintained that the Inland Waterways Users Board was purely advisory and could not, as Stafford maintained, exercise any control over spending levels or the imposition of user fees.<sup>52</sup>

In the end, Senator Stafford, not formerly heavily involved in the waterways legislation, proposed a compromise that eliminated a proposed cap (\$646 million per year for fiscal years 1986-1999),

dropped the Inland Waterways Users Board, and eliminated the provision giving the Secretary of the Army the authority to impose user fees. However, the draft also required that existing waterway fuel taxes finance the full cost of future inland harbor construction. That section was opposed by senators who feared funding waterway improvements solely from the trust fund. Stafford told the Senate on 28 June, when he introduced his compromise, that he wanted to "hold down the exposure of the taxpayer to new spending" and to develop "the most cost-effective program reasonable."<sup>53</sup> Consequently, he continued, "I suggest that we release every penny in the Inland Waterway Trust Fund [created in 1978] and dedicate it to finance the full cost of constructing any locks and dam project not now under construction." Of course, Stafford's new activism surprised and pleased water development proponents. The American Waterways Operators stated in its weekly letter, "Many observers view this action as a positive step toward passage of water resources legislation in the Senate and are pleased that it contains no new taxing or fee authority."<sup>54</sup> On 6 August, Stafford met with Senators Abdnor, Jennings Randolph of West Virginia, and Moynihan, all key leaders, and persuaded his three colleagues to accept his compromise intact. However, eventually Stafford agreed to reduce this cost-recovery measure to the 50 percent level.<sup>55</sup>

As for Title X, the major problem was section 1006, which authorized nonfederal interests to collect fees to cover their share of the cost of harbor construction and maintenance. The

section specified that at least 80 percent of the costs would have to be recovered from the direct beneficiaries. As with Title V, much concern existed both within the Senate and among the shipping interests about granting so much power to local port authorities and governments. Senators Moynihan, Stafford, and Bentsen, all members of the Environment and Public Works Committee, convinced Senator Abdnor to draft a new Title X and to offer it as an amendment during floor debate. Their new title omitted the 80-20 provision and excluded the imposition of harbor fees on vessels with design drafts of 14 feet or less or on vessels engaged in intraport movements. This version still did not satisfy the Finance Committee, which was more sensitive to issues that appeared to challenge congressional prerogatives. The compromise version finally accepted simply authorized nonFederal interests that have funded, constructed, maintained, or funded any harbor project to "submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives proposals and recommendations for legislation which would authorize such non-Federal interests to collect fees for the use of such project by vessels in commercial waterway transportation."<sup>56</sup>

Senator Stafford's actions helped allay concerns of the waterway industry. However, they resulted from compatible objectives rather than from caving in to the navigation interests. For both Congress and navigation interests it was important that revenue policy remain in congressional hands. Navigation interests worried about user fees being imposed by agencies over which they

might have little or no influence: the Secretary of the Army's office and local authorities. Congress reacted strongly to delegating revenue-gathering authority, traditionally a congressional prerogative, to offices outside of the legislative branch. In hindsight, it seems obvious that the original titles were doomed.

In the next month or so, Senator Abdnor was able to garner support for his legislation through some difficult compromises. He won the support of Senator Wallop of Wyoming by agreeing to drop Title XI, which would have established a National Water Policy Board to replace the old Water Resources Council. Working with Senators Moynihan and Randolph, he also engineered a compromise that placated Senator Warner on the difficult equity problem involving the Norfolk and Baltimore ports. Still, some important Senators remained dissatisfied. Senators Packwood and John C. Danforth of Missouri were unhappy about the trust fund providing 100 percent of the construction costs for future lock-and-dam replacements. They put "holds" on the legislation, a move that was nonbinding on the Senate leadership but signaled that floor debate would be extensive and more than likely heated. Several other senators had problems with various elements of S. 1739. One important Democratic senator, J. Bennett Johnston from Louisiana, objected to cost-sharing provisions for flood control work in the lower Mississippi Valley, which since 1928 had been constructed at 100 percent federal expense.<sup>57</sup>

Although Senate Majority Leader Howard Baker had promised in

August that S. 1739 would be considered the following month, he was unable to keep his promise. Instead, there was extended and vituperative debate on numerous appropriations bills that needed to be passed to keep the government running past the 1 October beginning of the new fiscal year. Indeed, by mid-September, it was clear that a continuing resolution would be necessary to fund federal agencies past 1 October. This set the stage for some dramatic and, in the end, futile efforts by water resource proponents to get a water bill passed in the final hours of the 98th Congress.

To understand the drama of these last few hours, one must consider what was happening among the various interest groups and within the House of Representatives. On 29 June, by a vote of 259-33, the House passed H.R. 3678, formally titled the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act, which Congressman Roe had introduced in July 1983. It was the last order of business before the House adjourned until 23 July for the Independence Day holiday and the Democratic National Convention. Deliberation had begun on 18 June and amendments began to be added ten days later. Several amendments were fairly noncontroversial. These related to such items as dredge disposal areas for New York and New Jersey, Representative Biaggi's amendment to allow nonfederal interests to impose tonnage duties on vessels entering deep-draft ports in order to recover construction and operation costs, and a Public Works and Transportation Committee amendment to provide nonfederal interests



with a 90 percent federal loan guarantee for their share of port construction costs. Far more troublesome to the Public Works and Transportation Committee was Florida Representative Cliff Shaw's attempt to have the Cross-Florida Barge Canal deauthorized. The project was about 45 percent finished when President Nixon stopped it in 1971. Shaw's amendment was defeated, but by a surprisingly razor-thin vote of 201-204.

The close vote shocked the Public Works Committee, and Congressman Howard worked energetically to see that other amendments were defeated. The first thing the committee did was circulate a list of members' names with black spots next to those whose districts contained projects authorized in the bill but who had voted for Shaw's amendment. The threat was implicit but obvious: Representatives who voted against any part of the bill might see projects in their own districts deleted. "It's so blatant, extraordinarily blatant," said Michigan Representative Harold Wolpe, who received a black spot. "You always hear rumors in the cloakroom that they'll kill your project if you dare to oppose anybody else's, but this is the first time I've ever seen them put it on paper. . . ."<sup>58</sup> Despite outraged protests on the floor, the pressure evidently worked. The next day, Representative Larry J. Hopkins, a Republican from Kentucky, offered an amendment to provide greater federal cost sharing for the Falmouth Dam project in Kentucky; without an increase in federal funding, the state opposed the dam. The amendment, strongly opposed by the Public Works and Transportation Committee leadership--Howard even

threatened to pull the bill from the calendar if the amendment passed--was considered a litmus test of the viability of the cost-sharing provisions in the legislation. Consequently, despite the fact that Kentucky objected to the project in the absence of greater federal contributions, the amendment was defeated. 148-196.<sup>59</sup> Then Representative Cheney of Wyoming offered an amendment to strike Title XII from the bill, which established a National Board on Water Policy. His amendment, which had received administration support, was defeated by voice vote. Meanwhile, Howard made light of his black dot list. "Had we been able to, we'd have put little red hearts on there. But on a Xerox machine it only comes out black, so there are black dots instead."<sup>60</sup>

The most interesting debate centered on Wisconsin Representative Thomas E. Petri's attempt to amend the legislation by requiring local interests to provide up to 50 percent of costs prior to construction of Corps projects and to impose a \$486 million cap on inland waterway expenditures, which would be reduced annually by \$35 million. Similar to Senator Simpson's amendment on the Senate side, Petri's amendment had been coordinated with the administration. On 20 June, OMB Director Stockman, siding with most environmental groups, the National Taxpayers Union, and railroad associations, warned of "budget busting" in H.R. 3678. He estimated that the bill's cost would approach \$18 billion.<sup>61</sup> Specifically, the amendment would require 50 percent up-front contributions for hydropower, 30 percent for general cargo harbors, and 10 percent for flood control. In a letter to Petri, Stockman

warned that he would "unhesitatingly recommend" a veto if the bill were passed in its present form. He believed the bill to be "the type of big-spending, budget-busting bill that undermines confidence in our nation's ability to control spending and reduce the deficit".<sup>62</sup> However, Stockman continued, if Petri's amendments were passed, "the likelihood of a conference being able to produce a bill that I could recommend to the president for signature will be much greater."<sup>63</sup> In fact, however, Stockman's enthusiasm for any bill at this time was negligible. Given the choice of a large bill loaded with projects the administration opposed or a smaller bill that would not prove popular with water developers and many local interests, the administration could gain little from water legislation in an election year. Hal Brayman observed, "The White House wishes the omnibus water bill would go away -- at least until after the election."<sup>64</sup>

While the administration supported Petri because of "budget busting" considerations, environmental groups offered support because they thought that many projects of dubious merit also threatened the environment. "This would take the pork right out of the barrel," Brent Blackwelder of the Environmental Policy Institute said of Petri's amendment. Lynn A. Greenwalt, former Director of the Fish and Wildlife Service, represented the National Wildlife Federation's position. He maintained that the amendment would "protect thousands of miles of rivers, streams and coastline comprising valuable wildlife habitat."<sup>65</sup>

Despite the formidable alliance in favor of the Petri

amendment, within the House the amendment received little support, partly because of the heavy-handedness of the House Public Works Committee. Eighteen representatives, including Congressmen Roe and Biaggi, spoke against it. Only five spoke on its behalf--Representatives Bob Edgar, Silvio O. Conte, Claudine Schneider, Berkley Bedell, and Bill Frenzel. In the end, the amendment was defeated, 85-213. Following this vote, the House passed the 320-page bill.<sup>66</sup> H.R. 3678 would authorize 258 projects at an estimated cost of \$14.3 billion, a new water supply loan program, a national water policy board, and a port trust fund. It also contained a number of provisions relating to fish and wildlife mitigation and to a \$20-million-a-year grant program to states for water programs. It would deauthorize numerous projects and provide for 100 percent federal construction funding for general cargo<sup>67</sup> ports and deep-draft ports up to 45 feet in depth. Funding to increase depths beyond 45 feet would be divided evenly between federal and nonfederal interests.

With the passage of H.R. 3678 and the emergence of compromises on the Senate side, prospects seemed brighter than in years for passage of a bill. Water project developers, long frustrated by the long debate over water resources legislation, decided to united in advancing chances of an act being passed. Leading the push was the Associated General Contractors (AGC), which in mid-1984 organized a broad-based "84 Water Resources Action Coalition" of 57 members, ranging from local political entities to national organizations. Actually, the coalition emerged from an AGC

infrastructure group that for some time had been examining the pressing public works needs of the country, including water resources projects. The only notable groups not involved were environmental organizations and federal agencies. The coalition urged Senator Baker to schedule floor debate on S. 1739 at the earliest possible moment.<sup>68</sup> Besides lobbying Congress, the coalition attempted to muster support from the various states. It sent each state information on what the Senate bill contained for that state.<sup>69</sup> Representatives from different groups in the coalition began to meet all around Washington to, in the words of one representative, "resolve differences between the large and small ports over user fees, cost-sharing, and other issues to provide impetus to push the bill through the Senate."<sup>70</sup> Susan Loomis, Associate Director for Congressional Relations for the AGC, noted that many groups in the coalition had agendas that were not always compatible. The one unifying factor was that everyone wanted a water bill. The coalition fostered communications among a large number of varied interests and, according to Loomis, "people kept coming back to meet, even if they didn't agree with what everyone else was saying, because we had to find out what was happening."<sup>71</sup>

In the last month of the 98th Congress, "what was happening" bordered on havoc.<sup>72</sup> The "holds" put on S. 1739 by Senators Danforth and Packwood, plus Senator Johnston's unhappiness with the bill's cost-sharing provisions, might have doomed the legislation in any case in the 98th Congress. However, congressional

preoccupation with passage of a continuing resolution, and the intransigence of David Stockman, all but precluded passage of a major water bill. On the House side, Congressman Tom Bevill of the Appropriations Committee attached to the continuing resolution a bill providing \$119 million for 43 new construction starts, including 20 not yet authorized. The bill, H.R. 3958, had passed the House in October 1983, but had not moved forward pending progress on Roe's bill. In the Rules Committee, Roe asked for a "rule" allowing the House to add his bill, H.R. 3678, to the continuing resolution. The Rules Committee refused, so Roe took his case to the House floor, where he won. On 25 September, the House voted, 336-64, to add H.R. 3678 to the continuing resolution, the second time that year that the House had approved the water bill. The amended resolution then went to the Senate.

By the time the legislation reached the Senate, Senator Hatfield, chairman of the Senate Appropriations Committee, had begun marking up a resolution that would, among other things, authorize three Bureau of Reclamation and 23 Corps of Engineers projects, including a second chamber at Lock and Dam 26, a new lock at Gallipolis on the Ohio River, and a replacement lock at Bonneville Dam on the Columbia. Money was also provided for deep-water projects at Baltimore, Norfolk, Mobile, and New Orleans-Baton Rouge.

When the continuing resolution reached the Senate floor, civil rights advocates tried to attach an amendment that would overturn a Supreme Court ruling on sex discrimination involving women

athletes at Grove City College. That effort resulted in a deluge of amendments involving school busing, gun control, and other issues. One senator said he was prepared to offer 1,300 amendments. The confusing floor debate ensured that the Senate would not pass a continuing resolution before the start of the new fiscal year. However, the senators did agree to consider 35 amendments to the House version of the continuing resolution, including several that had been attached to the Senate version. Senator Abdnor succeeded in getting S. 1739 scheduled as amendment number 35.

The Senate worked until 2:38 a.m. on 3 October, reconvened at 11:00 a.m., and remained in session until 9:32 a.m. on 4 October, the date that Congress had intended to adjourn. About 6 a.m. on Thursday, the Abdnor bill reached the Senate floor. Senator Abdnor reviewed the evolution of the legislation and urged the Senate to adopt it. "This represents four years of meetings, working, discussions and talking back and forth," he said. "We think we have finally come close to a solution. We have tried to walk a tightrope between the demands of the Administration as well as the environmental and taxpayer groups for still more cost sharing and the demands of project supporters for no additional cost sharing at all. That is quite a problem." He said the main problem with the Bevill/Hatfield new starts amendment was that it contained no policy. If enacted, he maintained, "then kiss the future of cost sharing goodbye." Senator Moynihan also spoke in support of S. 1739. He said that the bill should be considered "out of respect"

for the authorization process. These concerns for government policy and Senate procedures, however, became inconsequential after Senator Baker suggested that the only real issue was how germane the Abdnor bill was to an appropriation measure. He thought it was not, and in the ensuing vote the Senate agreed, 60-36.

In anticipation of a conference committee to reconcile differences between the House and Senate versions of a continuing resolution, Senator Abdnor and Representative Roe had initiated negotiations over their water bills during the last week of the congressional session. While no water bill was passed, their negotiations led to important agreements that carried over into the next year. Their staffs first met on Sunday, 30 September. Abdnor's aides offered to accept Roe's shallow-draft provisions if the House accepted the Senate's deep-draft navigation section. Abdnor signaled his willingness to use the Inland Waterways Trust Fund to finance only 33 percent of new waterways projects rather than the 100 percent that Stafford had wished. In return, he wanted Roe to agree that ports between 20 and 45 feet in depth would have to pay for 30 percent of new construction costs, instead of such costs being borne by the federal government. Maintenance would be capped at \$420 million annually; Roe's bill had kept maintenance for ports up to 45 feet in depth a full federal responsibility. Also, while H.R. 3678 had fixed nonfederal costs for harbors over 45 feet in depth at 50 percent, Abdnor wanted to make that percentage a minimum. Under certain conditions, ports might have to pay full costs. While these proposals were probably



negotiable, Abdnor's proposal contained one item that Roe's aides knew their boss would find truly objectionable. That was to give up the Port Infrastructure Development and Improvement Trust Fund, which would be financed by appropriating general revenues equal to customs collections at seaports up to a maximum of \$2 billion annually. The compromise foundered on this item.

A meeting between Roe and Abdnor scheduled for the next day was canceled at the last moment. Senator Abdnor then asked Roe to make a counterproposal. From 10 p.m. on Tuesday, 2 October, until 2 a.m., Abdnor and Moynihan met with Roe and the ranking minority member on the House subcommittee, Arlan Stangeland from Minnesota. The four men agreed "in principle" on several key issues. One-third of the cost of new lock and dam projects would come from the Inland Waterways Trust Fund. General cargo ports would have to pay 20 percent of new construction costs, but lands, easements, and rights of way would count toward the 20 percent. Ports over 45 feet in depth would have a choice. They could either accept 100 percent nonfederal funding with low-cost federal loan guarantees available for up to 90 percent of project costs, or they could accept 50 percent nonfederal financing with no loan guarantees and one-half of the local share advanced during construction and the remainder paid over 30 years. Ports could collect user fees only from vessels requiring depths greater than 45 feet. For flood control projects, nonfederal interests would have to pay 25 percent, including 5 percent in cash during construction.

Senator Abdnor referred to these negotiations during debate in

the Senate. "Maybe we are the first committee to ever start meeting with the House side in conference before we passed a bill, but I thought were so many miles apart that we could never get together." Then, with a gesture, he added, "I am here to tell you that we are only that far apart from coming together with a very fine bill."

A few hours after turning down the Abdnor amendment, the Senate passed its version of the continuing resolution. That evening, 4 October, House and Senate conferees agreed on several matters, including the Bevill/Hatfield new-starts provisions. A conference subcommittee selected 49 water projects, including 19 that were unauthorized, with an estimated first-year cost of \$98 million, of which about one-fifth was to come from the Inland Waterways Trust Fund. The estimate was under the administration goal of \$100 million, and Secretary of the Interior William P. Clark signaled acceptance. The conference could not agree on the Roe bill and turned its attention to an entirely different subject, military aid to Central America. The water controversy remained unresolved the next day, forcing Congress to adjourn for Yom Kippur and the Columbus Day holiday with the continuing resolution still in conference.

Had the continuing resolution been passed on Friday, 5 October, the Bevill/Hatfield new starts provisions probably would have survived, but events over the weekend evidently changed the President's position. First, OMB Director Stockman worked to torpedo the compromise. In the words of Tom Skirbunt, "Stockman

played nuclear war and he went to the White House and he got the President to agree that he would, in fact, veto the continuing resolution if it contained one water project."<sup>73</sup> According to the Washington Post, Stockman "argued strongly that Reagan should ignore the measure if the water projects remain attached because the bill would ignore 3 years of effort by the Administration to alter the way water projects are financed."<sup>74</sup> While some presidential advisors, evidently including the Secretary of the Interior, thought that President Reagan should sign the measure in exchange for an agreement on continuing aid to the Nicaraguan rebel forces, Stockman's position carried the day at the White House. Stockman did not reject water projects outright, but he insisted on coupling any appropriations with major changes in policy. Thus, the administration supported three Bureau of Reclamation projects in the bill that had also been included in the President's fiscal year 1985 budget. The White House also favored a number of previously authorized Corps of Engineers projects, but only if the administration's water policy reforms and user fees were accepted as outlined in the President's letter to Senator Laxalt.<sup>75</sup> Of course, in the last gasps of the congressional session, it was unlikely that Congress and the administration could reach a compromise on these major policy shifts.

While Stockman's influence may have been decisive, another factor affecting the President's judgment was his relatively poor showing in a TV debate with his presidential opponent Walter Mondale over the Columbus Day weekend. Mondale put Reagan on the

defensive on the issue of big spending, and Reagan certainly did not wish to be accused of approving supposed congressional extravagance. In any case, he instructed Stockman to send a "strong veto signal" to Congress if the policy and financing reforms were not included. Consequently, the budget director sent Hatfield and Whitten identical letters: "If we were to permit the approximately \$6 billion worth of new projects in the tentative conference agreement to go forward, any future effort at reform would be virtually meaningless. We must accordingly take strong exception to the inclusion of any appropriations to initiate construction starts." Stockman objected to both authorization and appropriation measures for water projects in the conference committee. "The presence of either of these items in the final conference agreement," he wrote, "would cause the President's senior advisors to recommend that he disapprove the bill."

When Congress reconvened on 9 October, James A. Baker, the White House chief of staff, warned House Speaker Thomas P. (Tip) O'Neill that the President would veto the continuing resolution if it contained any water project authorizations or appropriations. The Speaker, fearing a veto would be blamed on House Democrats, pressured Congressman Jamie L. Whitten, chairman of the House Appropriations Committee, and Bevill to delete the water projects. They agreed to do so. Both Roe's bill and the Bevill/Hatfield amendment were eliminated for political reasons.

Somewhat surprisingly, the man who objected most strenuously to Stockman's maneuvers was Republican Senator Hatfield. For about

a day he resisted the House decision to drop all water projects from the continuing resolution and accused the House Democrats of "caving in" to the White House. As for the administration, he accused it of singling out domestic water projects for the ax while displaying "no limitation in their lust" for higher military spending. He worked all day on 10 October for a compromise, but the White House resisted. Finally, Hatfield asked M.B. Oglesby, Assistant to the President for Legislative Affairs, to tell him what cost-sharing formulas the White House might find acceptable in order to break the logjam on projects.

In response, Hatfield received a one-page outline specifying stiff user charge requirements. There would be a statutory cap of \$500 million annually, including outlays from the Inland Waterways Trust Fund, on federal obligations for inland navigation projects. The Secretary of the Army would be authorized to impose user fees. Local interests would have to pay 30 percent of the costs for port projects up to 45 feet in depth and 75 percent for those over 45 feet, with no federal loan guarantees. A statutory cap of \$250 million annually on maintenance of deep-draft channels would be imposed. Other cost-sharing items were to reflect the percentages presented in the Abdnor bill.

These demands fell well short of anything that could be negotiated, and Senator Hatfield was enraged. He reluctantly agreed to the House move to delete all water projects from the continuing resolution, but he felt betrayed by Stockman. He called the director "an eye-shade accountant . . . who takes everything

from purely the dollars and cents and who does not look at benefit/cost ratios, capital investments and their returns." Stockman, Hatfield said in a Portland, Oregon, speech, comes "from a school of economics that doesn't exist . . . the basic thesis is that any non-military expenditures create a deficit and all military spending does not create a deficit." He concluded that a paralysis of government exists when dealing with water projects. The bitterness between Hatfield and Stockman was to last into the next year, and the entire debacle estranged the administration from the Senate Republican leadership.<sup>76</sup>

Within less than a month, then, prospects for water project legislation changed from optimistic predictions of quick passage to gloomy concerns over the impasse between the White House and the Republican Senate leadership. However, both Roe and Abdnor pledged to continue the fight into the 99th Congress. Shortly before midnight on 10 October, Congressman Roe thanked his colleagues for their support and eloquently quoted, "For all sad words of tongue or pen, the saddest of these: It might have been."

## NOTES

1. "Statement of Alice M. Rivlin, Director, Congressional Budget Office, Before the Committee on Environment and Public Works, Subcommittee on Water Resources, United States Senate," 18 May 1983. Photocopy in WRDA-86 files, OH, HQ USACE.
2. Transcript, Tofani interview.
3. Transcript, interview with Joan Kovalic, 14 January 1988, p. 15.
4. Ibid., p. 17.
5. Ibid., p. 20.
6. Washington Watch, 1 March 1983, p. 1.
7. Gianelli interview, pp. 4-5, OH, HQ USACE.
8. "Remarks by the Honorable William R. Gianelli, Assistant Secretary of the Army (Civil Works) At the 1983 Division Commanders' Conference," Washington, DC, 11 May 1983, Gianelli files, OH, HQ USACE; Washington Watch, 1 March 1983, p. 7.
9. Gianelli speech, 11 May 1983, OH, HQ USACE; Newsletter, 3 June 1983, p. 1.
10. Memorandum for the President from James G. Watt, 9 June 1983 (copy), Don B. Cluff papers, WRDA-86 files, OH, HQ USACE.
11. Don Cluff to Don Crabill and Fred Khedouri, OMB, 15 June 1983, subj: Gianelli Cost Sharing Testimony (copy), Cluff papers, WRDA-86 files, OH, HQ USACE.
12. NWC Newsletter, 3 June 1983, p. 1.
13. Ibid., p. 3.
14. William Gianelli to Senator James Abdnor, 26 July 1983, photocopy in Gianelli files, OH, HQ USACE.
15. President Ronald Reagan to Senator Paul Laxalt, 24 January 1984, reprinted in U.S., Congress, House, Committee on Appropriations, Subcommittee on Energy and Water Development, Energy and Water Development Appropriations for 1985, part I, 98th Cong., 2d sess., 1984, pp. 205-208.

16. Notes of an interview with Don Cluff, Chief, Programs Division, Civil Works Directorate, HQ, USACE (during the early 1980s, Cluff worked for OMB); transcript, Arnold interview, pp. 53-55.
17. Transcript, Arnold interview, pp. 14-27.
18. David Stockman to Senators Hatfield and Warner (identical letters), n.d., reprinted in Congressional Record, 98th Cong., vol. 129, part 5, 21 March 1983, pp. 6231-32.
19. Ibid.
20. Ibid.; Don Cluff, "Congressional/Executive Negotiations as Viewed from the Executive Branch of Government: A Case Study," pp. 4-5 (draft manuscript), Cluff papers, WRDA-86 files, OH, HQ USACE.
21. Transcript, Arnold interview, pp. 16-18.
22. Ibid., pp. 20-27; transcript, interview with Erik Stromberg, President, American Association of Port Authorities, Alexandria, Virginia, 22 February 1988, pp. 6-9, OH, HQ USACE.
23. Transcript, Arnold interview, pp. 27-29.
24. Ibid., p. 16.
25. Ibid., pp. 32-40.
26. American Waterways Operators (AWO) Weekly Letter, 1 July 1983.
27. William Lally, "Senate Committee Passes Dredging Cost-Sharing Plan," Baltimore News American, 9 November 1983.
28. [Committee Print], S. 1739, 7 November 1983, 98th Cong., 1st sess., p. 112.
29. NWC Newsletter, 16 December 1983, p. 2.
30. U.S. Congress, Environmental and Energy Study Conference, Fact Sheet, 18 January 1984, p. 7.
31. Stockman to Senator Stafford, 21 September 1983, and Stockman to Senator Abdnor, 7 October 1983, both quoted in Washington Watch, 16 December 1983.
32. Quoted in *ibid.*
33. Ibid.
34. Interstate Conference on Water Problems (ICWP), Washington Report 2, no. 8 (August 1983).



35. AWO Weekly Letter, 5 August 1983.
36. Environmental and Energy Study Conference, Fact Sheet, 18 January 1984, p. 2.
37. Ibid.; Robert F. Morison, "Congress, Reagan Team Closer on Port Development Program," New York Journal of Commerce, 11 January 1984. Even though the Principles and Guidelines were nonbinding, the Corps of Engineers had integrated them into its own regulations and had adhered to them ever since they had been introduced.
38. Executive Office of the President, Statement of Administration Policy, "H.R. 3678 -- Water Resources Conservation Development and Infrastructure Improvement and Rehabilitation Act of 1983," printed and circulated to Congress on 15 June 1984 (prior to House debate on the legislation). Cluff papers, WRDA-86 files, OH, HQ USACE.
39. Environmental and Energy Study Conference, Fact Sheet, p. 8.
40. Newsletter, 16 December 1983, p. 5.
41. Environmental and Energy Study Conference, Fact Sheet, 18 January 1984, p. 4.
42. AWO Weekly Letter, 18 May 1984.
43. Washington Watch, 10 February 1984, pp. 4-5; Washington Watch, 6 April 1984, pp. 3-4.
44. Washington Watch, 6 April 1984, p. 7.
45. Ibid., 11 May 1984, p. 7.
46. Ibid.
47. Ibid., 11 May 1984, p. 1.
48. Ibid., p. 2.
49. Ibid., 6 April 1984, p. 2.
50. Ibid., 23 July 1984, pp. 2-3.
51. AWO Weekly Letter, 8 June 1984.
52. Ibid.
53. Washington Watch, 17 August 1984, p. 1.
54. Western Resources Wrap-Up, XXII, no. 30 (26 July 1984).

55. Washington Watch, 23 July 1984, p. 1, and 17 August 1984, p. 5; Senate bill 1567 (rewritten S. 1739), 1 August 1985.
56. S. 1739, 98th Cong., 2d sess., Star Print, May 1984, p. 177.
57. Washington Watch, 19 October 1984, p. 2.
58. Quoted in T.R. Reid, "House Mutiny on Water Projects," Washington Post, 30 June 1984; see also, McCool, Command of the Waters, p. 213.
59. AWO Weekly Letter, 7 July 1984; Washington Watch, 23 July 1984, p. 5; Reid, "House Mutiny on Water Projects," Washington Post, 30 June 1984.
60. Reid, "House Mutiny on Water Projects," Washington Post, 30 June 1984.
61. AWO Weekly Letter, 7 July 1984; Dale Russakoff, "Water Bill Fought By Unlikely Allies," Washington Post, 21 June 1984.
62. Quoted in Russakoff, "Unlikely Allies."
63. Quoted in *ibid*.
64. Quoted in Western Resources Wrap-Up, series XXII, No. 30, 26 July 1984.
65. Quoted in Russakoff, "Unlikely Allies".
66. AWO Weekly Letter, 7 July 1984.
67. The terms "general cargo" and "commercial cargo" were constant sources of confusion as their definitions changed to accommodate political desires. The more specific term "commercial cargo" was applied to cargo transported in commercial vessels, including passengers transported for compensation or hire. However, even here some exceptions found their way into WRDA-86.
68. Washington Watch, 23 July 1984, p. 5.
69. Western Resources Wrap-Up, XXII, no. 29 (23 July 1984).
70. Quoted in *ibid*.
71. Transcript, interview with Susan Loomis, 13 January 1988, p. 19, OH, HQ USACE.
72. Except as other noted, the following description of activities surrounding water legislation and the continuing resolution, including the quotations, comes from Washington Watch, 19 October 1984, pp. 2-7.

73. Skirbunt interview, p. 38.
74. Quoted in Washington Watch, 19 October 1984, p. 6.
75. James A. Baker III, White House Chief of Staff, to Secretary of the Interior William Clark, 6 October 1984 (copy), Cluff papers, WRDA-86 files, OH, HQ USACE; Clark to Baker, 6 October 1984 (copy), Cluff papers, WRDA-86 files, OH, HQ USACE.
76. Arnold interview, pp. 42-43; transcript, interview with Randall Davis by Martin Reuss, 23 February 1988, p. 8. Davis was OMB Associate Director for Natural Resources, Energy and Science from 1 April 1985 to 1 March 1987.

#### IV

#### SHARING THE BURDEN

The winter of 1984-1985 was a critical period in the development of federal water resources legislation. Private and public constituent groups, senators and representatives, committee staffs, the Corps, OMB, and others were mobilizing support, articulating positions, and seeking compromises. OMB Director David Stockman provided a momentary distraction when he publicly recommended in mid-December that the Bureau of Reclamation be folded into the Corps of Engineers, a reversal of earlier proposals extending back decades. Within hours, the Secretaries of Defense and Interior condemned the proposal, as did presidential advisor Edwin Meese III. Stockman did generate some initial presidential interest, but, without executive branch or congressional support, his proposal went nowhere.<sup>1</sup> Within the water resources community, attention continued to focus on authorization legislation.

Pressed by Robert Dawson, who remained Acting Assistant Secretary of the Army, Civil Works, at the end of 1984, the Corps began to assume a more active role in preparing nonfederal interests to accept additional cost sharing. Perhaps Dawson's exhortations were not really necessary; the Corps was becoming increasingly anxious about its future. For the first time in the organization's history, operation and maintenance expenditures exceeded construction expenditures in fiscal year 1984. Lacking a major water resources act since 1970, the Corps was running out of

new work to do. The Corps' personnel, water resources mission, and very existence were brought into question. The agency needed a water resources bill, and cost sharing was the key.

As a step toward educating local and state organizations and exchanging views on cost sharing, the Corps and the Interstate Conference on Water Problems (ICWP) co-sponsored a series of workshops from October to December 1984 in Raleigh, Chicago, Dallas/Ft. Worth, and Seattle. In April 1985, a final roundtable convened in Washington, DC. The Digest of Proceedings that came out of these conferences provided an overview of the probable future of water project financing. Sections addressed key issues such as financing alternatives and financial assistance programs, the development of project financing plans, and the changes in federal-state relations that new cost-sharing requirements would generate.<sup>2</sup> Nonfederal interests could hardly miss the message that they must accept a greater financial burden for future water projects.

On 3 January 1985, as soon as the 99th Congress had convened, Congressman Howard, in his role as chairman of the House Public Works and Transportation Committee, introduced the 375-page "Water Resources Conservation, Development and Infrastructure Improvement and Rehabilitation Act of 1985." Congressman Roe and three members of his subcommittee co-sponsored the legislation. This was the old H.R. 3678, which had passed the House the previous summer. In the new Congress, the bill became H.R. 6. While Roe had wanted to modify the bill slightly, he went along with his chairman's desire

to file the legislation simultaneously with the Clean Water Act amendments, which became H.R. 8. The early submissions substantially increased the chances of the bill reaching the floor for a vote. Roe's hope was to avoid further hearings altogether and to move the bill through the House and to the Senate by the end of March.<sup>3</sup>

On the other side of the Capitol, Senator Abdnor on 31 January introduced S. 366, identical to S. 1739, the bill that he had attempted unsuccessfully to add to the continuing resolution at the end of the last Congress. In a "Dear Colleague" letter, Abdnor and Senator Moynihan, the senior minority member of the Senate subcommittee, appealed for support from other senators. They wrote that the bill was "a fair, fiscally responsible and vitally important step toward reforming and revitalizing this Nation's water resources programs."<sup>4</sup> Their efforts succeeded in obtaining 21 more co-sponsors.

While S. 366 was closer to administration thinking than was H.R. 6, it did not address additional user fees for the inland navigation system. The OMB water resources staff, led by Frederick N. Khedouri, Associate Director for Natural Resources, Energy and Science, attempted to have the administration's user-fee proposals included in the budget reconciliation process, a maneuver that the Reagan administration had used successfully in 1981 to have Congress vote up or down on a series of measures designed to reduce the federal deficit. OMB's concern was that the Senate Finance Committee would kill any user-fee proposals. In vain, Khedouri

attempted to convince Senators Stafford and Abdnor to include the proposals in the reconciliation package, and Stockman himself met with the Senate leadership at least twice to discuss the issue. However, the meetings between the OMB and Senate leadership tended to be acrimonious and accomplished little. Moreover, while some senators were willing to compromise on port construction and maintenance issues--indications of growing flexibility on the part of port interests--a number of senators remained opposed to considering additional user fees on the inland system. The barge industry was undergoing a slight economic revival, and several Senate supporters feared doing anything that might retard the industry's recovery. In the end, Stockman's and Khedouri's efforts failed, and the issue of navigation user fees was dropped from the reconciliation package.<sup>5</sup>

While the introduction of H.R. 6 and S. 366 was expected, the administration surprised Congress when, early on the morning of 20 February and just before Acting Secretary Dawson and Chief of Engineers Heiberg were to appear before the House Appropriations Subcommittee on Energy and Water Development, Dawson sent over draft legislation (the "Water Resources Development Act of 1985") dealing with rivers and harbors improvements. Developed with the active involvement of Corps of Engineers staff, and approved by OMB, the legislation represented official administration policy. Late the same day, Dawson sent to Congress draft legislation (the "Inland Waterways Development Act of 1985") dealing with user's fees for inland navigation.<sup>6</sup> This draft was delayed by

significant last-minute word changes to ensure that it was referred to the Senate Environment and Public Works Committee rather than to the Finance Committee. The idea was to establish the linkage between revenue enhancement measures and project authorizations; one without the other would ensure defeat. Dawson's office worked with Hal Brayman to change two titles of the draft--dealing with the establishment of an Inland Waterways Users Board and providing for periodic reports to the Secretary of the Army--so that they became new and independent sections rather than amendments to the Inland Waterways Revenue Act of 1978. In the end, the Finance Committee received the user-fee sections of the bill to review, but by then the linkage was firmly established and, with it, the pressure on the committee to send the revenue measures to the Senate floor. Indeed, Senator Packwood, chairman of the Finance Committee, agreed to move the proposals forward expeditiously.<sup>7</sup>

The Administration's initiative was remarkable. While prior administrations had supported individual projects or programs, for the first time an administration submitted complete draft omnibus water resources and inland navigation bills. Dawson called the event "historic . . . the first time in memory" and emphasized that cost-sharing reforms were absolutely essential before the administration would support new starts.<sup>8</sup> Brayman called the move "a good tactical decision."<sup>9</sup> Randall Davis, who shortly succeeded Khedouri as OMB Associate Director, noted that the Administration was concerned about being perceived as "anti-water," which meant to some "anti-West," and thought that a bill supporting "responsible



water projects" might change the image.<sup>10</sup> Certainly, the bill did have the virtue of spelling out the administration position on numerous items. However, as Arnold observed, the bills were "dead on arrival," even though Senator Stafford and Congressman Howard introduced them as matters of courtesy a few days later.<sup>11</sup>

The financing provisions particularly upset nonfederal interests. The administration proposed that nonfederal interests pay 70 percent of new construction costs for harbors 45 feet deep or less and 100 percent of the incremental costs for increasing harbor depths beyond 45 feet. Nonfederal interests would pay 70 percent of the O&M costs for harbors 14 feet deep or less and handling less than one million tons of cargo annually. Above those limits, the nonfederal interests would pay the entire bill. Nonfederal interests would pay 100 percent of the O&M costs for other water resources projects and a percentage of new construction costs according to the following formula:

| <u>Construction</u>                   | <u>Percentage</u> |
|---------------------------------------|-------------------|
| Hydroelectric Power:                  | 100               |
| Municipal and Industrial Water:       | 100               |
| Recreation:                           | 50                |
| Flood Damage Reduction:               | 35                |
| Hurricane and Storm Damage Reduction: | 35                |
| Agricultural Water Supply:            | 35                |
| Fish and Wildlife Enhancement:        | 100               |
| Aquatic Plant Control:                | 50                |

The legislation would authorize 17 port and harbor improvement

projects and 40 other projects, most of which were for flood control. Additional proposals would establish a joint public-private advisory Port and Harbor Improvement Task Force and would simplify planning procedures.

The administration's proposed inland waterways legislation retained the inland waterways fuel tax, but would impose an additional 0.15-cent-per-ton-mile user tax to finance 70 percent of the Corps O&M, construction, and rehabilitation activities on the inland waterways system. The fee would be payable quarterly in conjunction with the waterway fuel tax, which was scheduled to increase from eight to ten cents per gallon on 1 October 1985. The bill would also establish a public-private Inland Waterways Users Board to advise the Secretary of the Army on waterway improvements.<sup>12</sup>

As predicted, nonfederal interests objected to the cost-sharing and cost-recovery provisions of these Administration bills. The navigation interests were particularly agitated. In its Weekly Letter, the American Waterways Operators underlined its objections: "Any increase in waterway user fees would be devastating to the barge and towing industry; user fees of the magnitude of the Administration's proposal would be impossible for the Industry to sustain."<sup>13</sup>

The AWO's tenacious refusal to consider the administration proposals was not realistic. By failing to reassess its strategy, the barge and towing industry endangered its support on Capital Hill and its ability to influence waterway legislation. Senator

John Danforth of Missouri called a meeting of industry representatives to explore options and discovered that no one favored backing down at that time. The senator was respected on both sides of the aisle, and waterway proponents hoped his entering the discussion might offset the influence of user-fee proponents such as Senator Hatfield. Danforth indicated that he was willing to fight for the waterway interests, but warned that he would not hold up the legislation indefinitely.<sup>14</sup> The meeting symbolized an important shift in Congress; even the most ardent waterway supporters were beginning to trim their sails to the political winds.

While most Capitol Hill lawmakers accepted the necessity of compromise, they thought the administration's proposals thoroughly unreasonable. Even in the Republican Senate, which was generally more favorable to the administration position, critics abounded. Abdnor called the proposals "almost a hopeless thing." Hatfield doubted the Administration's sincerity. The legislation "doesn't show in my view any movement by the Administration toward a compromise with Congress on cost sharing. . . . It looks like we are even behind square one now." Senator Johnston of Louisiana refused to accept the inevitability of user fees. "I stand here not so much as an opponent of user fees but as somebody who realistically wonders whether they can work from a practical political standpoint and, secondly, who wonders whether or not [user fee proponents] have properly assessed the federal interest in navigation."<sup>15</sup>

Congressman Roe could not avoid holding hearings. Aside from the controversy, etiquette dictated that the administration be allowed to defend its proposals despite the general skepticism they generated on Capitol Hill. On 17 April, the House subcommittee began hearing witnesses. Dawson testified for over two and a half hours. At stake, he fervently said, was whether the Army Corps of Engineers' civil works program would be "a declining, fading program or a full-blooded, strong program capable of addressing the nation's water needs." Going further, Dawson ventured that the authorization process itself was imperiled. This referred to the fear that the appropriations committees might try to energize the rivers and harbors program by appropriating funds even for unauthorized projects. Finally, Dawson observed that the issue was "the credibility of government's ability to cope with difficult problems. I am sure some potential beneficiaries are beginning to wonder if their government can deliver on these issues."<sup>16</sup>

Dawson attempted to discourage support for H.R. 6. He predicted that the legislation would fail in Congress just like it did last year (although it passed the House twice) and encouraged the subcommittee to draft a bill "significantly closer to ours in revenue produced through cost sharing and one with significantly more restraint on the number of projects." His candor may have been appreciated, but his message was not. In particular, subcommittee members rejected the user taxes that Dawson supported. Congressman James L. Oberstar of Minnesota suggested that the

administration was trying to use ports and waterways to reduce the federal deficit, which was unfair since they "didn't create the problem." William Clinger of Pennsylvania thought the proposals favored well-to-do areas. Arlan Stangeland, ranking minority member, warned the administration to be "somewhat flexible" on user fees and cost-sharing percentages. Chairman Roe spoke of near-bankrupt farmers who could scarcely afford additional costs for transportation. He pointedly asked Dawson if the revenue was necessary. The Acting Secretary had difficulty answering the question and asked to submit a paper explaining the administration's "basis for feeling that if we are going to move forward on new projects, we must come up with additional money. It's obvious we have got a difference of opinion."<sup>17</sup>

While Roe's subcommittee was reviewing H.R. 6 and the administration proposals, the House Merchant Marine and Fisheries Committee examined Congressman Mario Biaggi's deep-draft port bill (H.R. 45). The bill separated out Title I of H.R. 6, dealing with port development, and modified it to include "fast tracking" of port construction projects and eligibility for a 90 percent federal guarantee of nonfederal costs.<sup>18</sup> Biaggi, who presided over the hearings, wanted to continue full federal funding of ports with depths of 45 feet or less and have 50 percent cost sharing for ports deeper than 45 feet.

The administration thought this approach fell well short of what was necessary. As Richard F. Walsh, Director of the Office of Economics in the Department of Transportation, emphasized,

"Effective marketplace decision-making is very important not only from this Administration's philosophical point of view, but also from the standpoint of the wise and efficient use of our economy's resources." This was an interesting inversion of the old Progressive Era approach that emphasized the rational and scientific management of natural resources development. He continued, "We need to have more stringent standards for public transportation investments, both on economic efficiency and on budgetary grounds." Walsh drew fire from the committee members when he suggested that "there is no reason why Federal revenues from the general taxpayers should be used to pay the costs of government provided services and facilities when the users of those services are able to meet the costs and there is no overriding social objective to be served by providing a subsidy."<sup>19</sup>

Biaggi responded by pointing to the government's historic obligation to ports. Baltimore Congresswoman Barbara Mikulski testily noted that "there is a socially-arrived-at objective that's called having jobs in this country." Congressman Herbert Bateman of Virginia said, "It is unthinkable to me that the U.S. government doesn't or shouldn't have a continuing financial role in seeing that America's infrastructure remains sufficient so that American commerce can continue to flourish. It is a national responsibility to assist in doing that. I don't look upon that as being a subsidy." Congressman William Hughes of New Jersey suggested that "at the very minimum . . . before we began imposing user fees we ought to see what the impact is going to be upon domestic

shippers."<sup>20</sup> In fact, Biaggi's proposals were as politically unrealistic as the administration's and did not come close to matching the Senate bill. Senator Abdnor's legislation called for 70 percent nonfederal cost sharing for channels up to 45 feet in depth and either 50 percent or 100 percent of the costs of deeper channels, depending on whether federal loan guarantees were issued. Senator Hatfield supported this formula too.<sup>21</sup>

Senator Abdnor did not hold hearings until May. By then considerable tension had developed between the Republican senator and administration spokespersons. In March, he accused Dawson of "budgetary gimmickry" in the Corps of Engineers' fiscal year 1986 civil works budget. To obtain the estimated \$2.9 billion needed for the program, the administration counted on the enactment of a water user bill that would bring in \$403 million in new revenues in fiscal 1986. However, there was no guarantee such legislation would be passed by then. Senator Stafford warned that "we should be thinking in terms of an alternative budget." Less diplomatically, Abdnor saw "the hands of the Administration's wizard of subtraction, Stockman, in the budget you have brought us today. I do not appreciate the message I see in this budget. . . ." What he correctly perceived was that the administration was prepared to sacrifice part of the Corps' program in the absence of a water user act. He asked Dawson for an explanation, and the response was not encouraging: "The Department's proposed fiscal 1986 program, out of necessity, is premised on the enactment of new legislation. . . . We don't have any fallback now."<sup>22</sup>

In May, Abdnor took on the administration's user fee proposal. He "would almost guarantee" that the proposal would go nowhere in the 99th Congress. Dawson repeated the standard administration text: "Federal funds aren't available like they were before" and "our inland waterways do produce very large benefits to the users." Like Roe, Abdnor expressed concern about the impact on agriculture.<sup>23</sup> His back against the proverbial wall, Dawson sought assistance during this time from three former Chiefs of Engineers, retired Lieutenant Generals Frederick J. Clarke, John W. Morris, and Joseph K. Bratton. At his request, the three men met with some key lawmakers to discuss how to break the impasse, but this effort was overtaken by events.<sup>24</sup>

In April, a new initiative began that substantially affected the evolution of water resources legislation. Congressman Thomas Bevill's House Appropriations Subcommittee on Energy and Water Development marked up a supplemental appropriations bill, H.R. 2577, containing funds for 62 Corps and 5 Bureau of Reclamation projects. The \$14 billion bill would simultaneously authorize and fund 31 water projects. While this would not have been novel, it certainly would have undermined the normal process, which was a two-step procedure involving first an authorization act and then an appropriation.<sup>25</sup> The bill also contained supplemental appropriations for aid to Israel and Egypt, rental housing assistance, food stamps, student loans, State Department security, veterans' benefits, family social services, rail service, the federal crop insurance program, and other items.



The water projects were controversial. David Stockman wrote a letter to Congressman Silvio Conte, minority leader of the House Appropriations Committee, in which he called the supplemental appropriations measure "a serious disappointment as an initial statement of fiscal responsibility." He called attention to the \$4.8 billion for unrequested water projects and the more than doubling of new starts proposed by the administration. "This action," Stockman wrote, "reopens a major pork-barrel issue that this Administration successfully opposed at the end of the last Congress--starting construction of a large number of unnecessary and expensive water projects without providing for either user fees to pay for their operation or enhanced sharing of their costs by non-Federal interests." The OMB Director concluded, "The supplemental bill in its present form is unacceptable."<sup>26</sup>

On 6 June, the House turned to H.R. 2577. First, House members voted 267-149 in favor of waiving certain rules of the Congressional Budget Act of 1974 in order to allow the consideration of unauthorized items in an appropriations bill. However, when debate on the actual bill began, Congressman Edgar introduced an amendment to delete funding for the unauthorized water projects. The House passed the amendment by the narrowest of margins, 203-202. The debate continued on 11-12 June; on the last day, the House focused on an amendment appropriating funds for humanitarian aid to Nicaraguan contras. In the afternoon, the final vote was taken, and the bill was passed, 271-156.<sup>27</sup>

Passage of Congressman Edgar's amendment was an important

victory for the Public Works and Transportation Committee, which insisted on its prerogative to authorize projects prior to funding. The amendment was also a small victory for the Administration, although OMB continued to oppose the legislation because it appropriated over a billion dollars for projects not in the President's budget and because there was no effort to enact financing reforms. Naturally, the environmental community favored the amendment and had worked hard for it. Recalling the champagne at their doorstep the previous October, the OMB staff reciprocated by sending champagne to the environmentalists after the vote on the amendment.<sup>28</sup>

Despite the favorable vote on Edgar's amendment, the authorizing committee was clearly served notice to accelerate progress on a new water bill or else have the Appropriations Committee take over the matter. Chairman Whitten of the Appropriations Committee tried to sooth wounded egos. "Through no fault of its own," he remarked, "our authorizing committee has not been able to enact an authorization bill for 10 years. . . . [however] I strongly believe we must look after our country, all of it. I am a strong believer in treating my colleagues and their districts on an equal basis and not just taking care of those where they have an old authorization, and leav[ing] the others where they have hopes that our colleagues from New Jersey [Howard and Roe] may give them an authorization in time to correct an unequal situation."<sup>29</sup> Roe responded, "The question before the House really is: Do we need an authorizing committee at all?"<sup>30</sup> The

House thought so--at least for the present.

The activity on the supplemental appropriations bill threatened the administration's political strategy as well as its financing reform agenda. OMB Associate Director Randall Davis realized that the Republican senators were getting edgy. Several were up for reelection, and they wanted to bring projects home to their constituents. Moreover, President Reagan's first term in office was drawing to a close, and Davis wanted to eliminate water projects as an issue in the upcoming election campaign. He consulted with Dawson, who supported him in his efforts, and peppered Stockman with memos advising him the time was right to compromise. Late springtime rumors that Stockman would soon be leaving added even more urgency to the issue. No one knew what to expect after his departure.<sup>31</sup>

Davis's memos may have helped convince Stockman, but surely the actions of the House Appropriations Committee and the animosity of Republican senators required little elaboration. They were compelling arguments for the administration to reassess its position. It was not simply the administration's apparent unwillingness to compromise that alienated the Senate Republican leadership, it was also the manner in which they and their staff aides were treated. Jeff Arnold, Senator Hatfield's assistant, recalled a meeting in the Vice President's office between various congressional aides and Assistants to the President for Congressional Affairs: "We were treated with about as much respect as a cur dog by the White House staff at that point." News of this

kind of treatment got back to the senators and made them "very unhappy."<sup>32</sup> At the same time, Senate Majority Leader Robert Dole wanted to find a way out of the impasse. The water resources issue had become so divisive among the Republican Senate leadership that it threatened cooperation in other legislative areas.<sup>33</sup> By May 1985, the time was both psychologically and politically right for compromise.

Toward the end of May, Stockman asked the OMB water resources staff to do a complete analysis of the House Supplemental Appropriations Act to determine the effect of the act on the federal deficit in the 1986-1990 time period. In a major shift of position, he confided to the staff that the conflict between the administration and Congress over the financing of water projects was creating substantial problems for the administration. For several reasons that he did not elaborate, Stockman believed the President could not veto the supplemental legislation. In sum, OMB had no choice but to allow new starts and get the best deal it could from Congress. Still, Stockman insisted that the new starts be allowed only if they were funded through new cost sharing or user fee reforms.<sup>34</sup>

On 4 June, in response to a request from Stockman, and no doubt anxious himself to resolve the issue, Senator Dole convened a meeting to discuss cost sharing and user fee proposals. Besides Dole and Stockman, Senators Abdnor, Stafford, Domenici, and Hatfield attended. Senator Packwood was not invited. At this meeting, Stockman informed the senators that the administration

might be able to support the new starts the senators wanted if a combination of Senator Hatfield's ad valorem port tax and Senator Abdnor's cost-sharing proposals were passed. Of course, Stockman also raised the issue of additional fees. He concluded that the administration could not accept any proposals that would lead to net expenditures greater than those in the Senate Budget Resolution, which set lower expenditure levels than those acceptable to the House.<sup>35</sup>

Another meeting involving the same principals took place on 12 June. The evening before, the senators had responded favorably to Stockman's desire to tie together Senator Abdnor's projects, programs, and cost-sharing reforms and Senator Hatfield's port construction and maintenance financing provisions. The senators also borrowed an idea from the House Appropriations Committee. Under heavy pressure from environmentalists, the House committee had inserted language into the supplemental bill specifying that funds for the Animas-LaPlata Bureau of Reclamation project in Colorado and New Mexico would be available only if the Secretary of the Interior reached a satisfactory cost-sharing agreement with those states by 30 September 1986 and submitted the agreement to Congress. The environmental community evidently doubted such an agreement could be reached. In any case, the senators now took that "fencing" language and applied it to all water projects in the supplemental bill, including Corps of Engineers projects.<sup>36</sup>

The senators' response, and the favorable (though narrow) vote on the Edgar amendment caused Stockman to toughen his position when

he met with the senators on 12 June. Beforehand, he had evidently received approval from the White House senior staff--possibly including President Reagan--to threaten a presidential veto in order to push the senators toward the administration position. One OMB staff member later observed that in all likelihood the White House allowed Stockman to use the veto threat only after the Director promised that the veto would be only a negotiating weapon.<sup>37</sup> While the details of the meeting are difficult to document, Stockman evidently presented options that included higher interest rates and tying the fencing provisions to specific cost-sharing formulas. He compromised on another issue, however, retreating from an earlier position that favored having nonfederal interests pay their share of harbor construction costs during the time of construction rather than over a longer period. Still, his insistence that no appropriated funds be obligated until nonfederal entities formally agreed to specific cost-sharing provisions enraged Senator Hatfield, who had not forgiven Stockman for the debacle at the end of the last congressional session. The meeting ended in disarray.<sup>38</sup> The altercation climaxed three years of growing animosity and sundered the veil of civility that normally cloaks political disputes.<sup>39</sup>

Despite the conflict, discussions continued. Stockman met with a number of key senators--about 15 altogether--to break the impasse. On 19 June, he held a final meeting. The expanded circle of senators included Senators Moynihan, Thurmond, Warner, and Mattingly. By this time, too, staff members from the Senate

Environment and Public Works Committee had become involved in working out details, although they did not actually attend any of the meetings.<sup>40</sup>

The 19 June meeting finally produced the long-sought compromise. Probably more than any other person, Senator Dole deserves recognition for his persistence in hammering out the agreement. As Abdnor said, "Bob Dole is a great one to bring both parties together and talk it out. . . . it took a guy like Dole to really hoist us in there."<sup>41</sup> Abdnor himself was at a disadvantage. Like Congressman Roe on the House side, he wished to preserve the authorization process. But he faced Senator Hatfield, the powerful chairman of the Senate Appropriations Committee, who was more than willing to bypass the normal authorization route just as Jamie Whitten did in the House. Abdnor resisted to the best of his ability but, in the end, gave in to many of Hatfield's demands. Still, Abdnor's resolution made clear his position, which may have helped in subsequent negotiations, and his earlier efforts on a water bill certainly provided much of the substance in the compromise.<sup>42</sup>

Stockman agreed to have his staff draft a colloquy for Senators Dole, Hatfield, Abdnor, Stafford, Packwood, and Domenici in which the agreement would be explained. After being signed by each senator, the colloquy would be published in the Congressional Record as part of the normal congressional proceedings. By noon the next day, the OMB staff had drafted the colloquy. Several more hours of last-minute negotiations followed. Suspicious of

Stockman, Senator Danforth, who had been only peripherally involved in the negotiations leading up to the compromise, but who held substantial influence over inland waterway users, objected to the proposed ten-cents-per-gallon increase in user-fee charges over a ten-year period. He relented in return for grudging administration support for a second lock at Lock and Dam 26 on the upper Mississippi, and a letter in which Stockman promised that the administration would not request further increases in the years ahead, such as ton-mile fees.<sup>43</sup> Senator Packwood, who had opposed user-fee legislation, also finally agreed, probably in return for including the Bonneville replacement lock in the bill.<sup>44</sup> The delays almost scotched the colloquy; Senator Hatfield proposed on the evening of 20 June that the Senate vote on the supplemental without the colloquy, and that the colloquy be added to the record the following day. Stockman agreed, and late that evening the Senate passed the supplemental bill by voice vote. The next day all the parties signed the five-page-long colloquy, and it was published in the Congressional Record just as if it were part of the debate prior to the vote.<sup>45</sup>

In the colloquy, Senators Dole and Hatfield gave an antiphonal recitation of the compromise's principal points. Supplemental appropriations for water projects would be "fenced" until the Assistant Secretary of the Army, Civil Works, (or the Secretary of the Interior in the case of Bureau of Reclamation projects) and nonfederal sponsors reached binding agreements on cost sharing. If such financing agreements were not reached by 30 June 1986, the



funds would no longer be available. The cost-sharing formulas presented in the Abdnor bill (S. 366) would serve as the basis for the financing agreements. Accordingly, the nonfederal cost sharing was as follows:

| <u>Purpose</u>                        | <u>Percentage</u> |
|---------------------------------------|-------------------|
| Hydroelectric                         | 100               |
| Municipal and Industrial Water Supply | 100               |
| Irrigation (Corps only)               | 35                |
| Recreation                            | 50                |
| Beach Erosion Control                 | 35-50             |
| Flood Control                         | 25-35             |
| Feasibility Studies                   | 50                |

Of the 25 water projects included in the Senate version, 11 were unauthorized, including the Bonneville replacement lock, a favorite of both Hatfield and Packwood. Including the cost-sharing formulas--albeit not quite the percentages the Administration wished--presumably gratified Stockman. However, the inclusion of unauthorized projects, despite their earlier rejection by the House, was a significant victory for Hatfield.

The administration and the Senate Republicans also reached an understanding on cost recovery for harbor construction and operation and maintenance and on inland user fees. Again bowing in Hatfield's direction, the compromise included a 0.04 percent ad valorem tax on imports and exports to recover 30 to 40 percent of the Corps' O&M expenditures. The ad valorem fee was a break for

the port of Portland, Oregon, whose terminals principally handled bulk products such as grain and timber, and a defeat for the ports of Seattle and Tacoma, whose terminals specialized in containerized shipping.<sup>46</sup> The contentious issue of nonfederal cost sharing for harbor construction was determined in the following way:

| <u>Depth (Feet)</u> | <u>Upfront %</u> | <u>Amortized %</u> | <u>Total %</u> |
|---------------------|------------------|--------------------|----------------|
| 0 to 20             | 10               | 10                 | 20             |
| 20 to 45            | 25               | 10                 | 35             |
| Deeper than 45      | 50               | 10                 | 60             |

User fees, as always, were a particularly difficult issue. The senators' acceptance of the proposition that user fees cover half the cost of inland navigation projects clearly reversed the historical commitment of the federal government to maintain free inland navigation, but it was a logical extension of the user-fee approach that had been initiated in 1978. Fifty percent of the cost of constructing new inland navigation locks and dams would come from the Inland Waterways Trust Fund. The fuel tax that fed the fund was to be increased from 10 to 20 cents a gallon over a ten-year period beginning 1 January 1988. This was a pittance compared to the original administration request of 0.15 cents per ton-mile for shallow-draft commerce that Gianelli and Dawson had supported. The Army Corps of Engineers estimated that this ton-mileage charge would have equaled a fuel tax of 57.3 cents per gallon!<sup>47</sup>

In a final concession to the administration, the senators agreed to delete from authorizing legislation a loan program for the construction of new municipal water facilities. Following the colloquy, there was a general round of congratulations over the agreement with the administration. Both Dole and Hatfield recognized Senator's Abdnor's efforts, and Abdnor returned the compliments. He thanked Hatfield for his efforts, assured his colleagues that the agreement had his complete support, and promised to move the compromise legislation forward expeditiously. Senators Domenici, Stafford, Warner, and Packwood also publicly voiced their support.<sup>48</sup>

Senator Hatfield was the most obvious winner in this compromise. According to Jeff Arnold, Hatfield's assistant, the senator felt like "we had hammered out a pretty darn good compromise, given the issues and so on that we were having to deal with, plus it left a lot of wiggle room for the actual development of the final piece of legislation."<sup>49</sup> The compromise was David Stockman's swan song in the water resources field. He retired as Director of OMB on 1 August, embittered by his many futile attempts to reduce discretionary spending and balance the budget.<sup>50</sup>

The ad valorem port charge immediately encountered problems. As it had for a number of years, the Customs Service protested its inability to collect such fees and suggested that the Internal Revenue Service, Coast Guard, or Corps of Engineers administer the program. Moreover, some doubted the constitutionality of the provision, citing a 1982 Congressional Reference Service report.

The question apparently rested on the distinction between fees and taxes. Brooklyn Congressman Mario Biaggi, who favored the tonnage approach, was particularly vociferous in questioning the ad valorem fee.<sup>51</sup> In the end, the Customs Service came around, after both the Justice Department and State Department announced that the approach did not violate the Constitution or international agreements.<sup>52</sup> While the Senate-administration compromise was a critical step in the advance of water resources legislation, the discussion about the collection of port fees showed that many questions remained.

House members could only sit as patient observers while the compromise was hammered out on the other side of the Capitol. Congressman Roe had discussed the framework of a compromise with Stockman even before the meetings in early June and had encouraged him to work out a cost-sharing compromise with the Senate Republicans, but Roe was not involved in the actual negotiations.<sup>53</sup> The administration's focus on the Senate irritated House Republicans most of all. Arlan Stangeland, the minority leader on the House Water Resources Subcommittee, criticized Stockman's failure to consult with House minority members, but consoled himself with the fact that the slight "wasn't unique to public works." According to Stangeland, the administration would come to the House and reach agreement on how certain bills should be formulated "and then they'd go to the Senate and cut their deal. They'd do that time and again, because the Senate happened to be Republican. And those of us as

Republicans in the House took umbrage to that. We just thought that wasn't fair because it cut us out of the loop and sometimes left us out to dangle in the wind. . . ."54

After the Senate passed its version of the supplemental, the next step was to refer the legislation to a House-Senate Conference Committee. However, Chairman Whitten delayed appointing members to the conference committee, partly because of his dislike for the cost-sharing provisions in the Senate bill and partly because of unspecified objections to other parts of the Senate version. Meanwhile, OMB and Senate staff members attempted to clarify a broad range of consequential issues not explicitly addressed in the Senate compromise. They included questions about the applicability of interest rates and fencing language to certain projects and whether previously authorized projects would be subject to the agreement. The outcome was a 134-page-long Senate report.<sup>55</sup>

Finally, in mid-July Whitten appointed House conferees. Subsequent negotiations were tightly controlled, and no one in the administration really knew what was taking place. Fate even favored legislative secrecy. The day the conference report was to be printed in the Congressional Record, a fire broke out in the Government Printing Office. This delayed publication until 31 July, the very day of the House floor debate.<sup>56</sup>

When the legislation reached the House floor, it immediately encountered opposition from Jamie Whitten. The Appropriations Committee chairman introduced a motion that substituted 41 projects (20 unauthorized) for the 25 projects (11 unauthorized) in the

Senate bill. His motion retained the "fencing" provision but exempted the massive, multistate, Mississippi River and Tributaries (MR&T) flood control project from the bill's cost-sharing provisions.<sup>57</sup> Whitten and others from states along the lower Mississippi brought up the old argument that, since the Mississippi drains 41 percent of the continental United States, flood control there should remain a federal responsibility. The exemption did not sit well with many congressmen. In the Public Works and Transportation Committee on 26 June, Congressman Edgar had already submitted an amendment to H.R. 6 to make separable elements of the MR&T project still to be constructed subject to cost sharing. However, Chairman Roe spoke out in opposition, and Edgar withdrew his amendment.<sup>58</sup> A few weeks later, during the floor debate on the supplemental appropriation, Roe changed his tune: "There is no reason, none, that those seven states [along the lower Mississippi] should be totally exempt. . . from cost sharing." Presumably, Roe felt compelled to reverse himself in response to procedural, not political, issues. He was incensed that Congressman Whitten appeared to be on course towards legislation that could undermine the years-long effort of his subcommittee. The battle was "over equity and fairness." What he meant was that, in a time of fiscal constraints, the Appropriations Committee seemed intent on passing legislation on behalf of their own districts, without regard to other members' wishes or the nation's needs. Roe castigated the Appropriations Committee members, calling the issue "a question of greed."<sup>59</sup>

Roe's impassioned defense of his committee prevailed, and Whitten's amendment was defeated, 170-258. However, immediately afterward, Congressman Howard introduced another motion, identical to Whitten's amendment except for the significant addition of language prohibiting the release of funds until an authorization bill had been signed. Without such an amendment, Public Works members feared that the projects funded in the supplemental bill would relegate the other 250-odd projects in H.R. 6 to a lower status. With some hyperbole, Chairman Howard warned that chances for passage of an omnibus bill would be virtually destroyed without this language. With Public Works Committee members satisfied that their prerogatives had not been compromised, the House passed the amended bill--with the 41 projects and the MR&T exclusion--320-106.<sup>60</sup>

A different reaction greeted the legislation when it arrived in the Senate the following day. There Senator Hatfield added a few words to Howard's language that had made release of funds contingent on authorizing legislation: "except that this sentence shall not apply after May 15, 1986." Several hours later, the House reluctantly adopted this phraseology.<sup>61</sup> The rewritten amendment put the authorization committees under intense pressure to move legislation. Otherwise, after 15 May 1986 construction could begin on projects funded in the supplemental bill. The President signed the legislation (Public Law 99-88) on 15 August.

Once the compromise on the supplemental appropriation bill was reached in June, the logjam on authorization legislation finally

broke in both the Senate and the House. On 26 June, the House Public Works and Transportation Committee approved H.R. 6 by voice vote. This new version contained amendments that reflected the Senate compromise, but with some major exceptions. It did not provide for 100 percent local funding for hydropower development, but left that issue in abeyance pending attempts by local sponsors to build facilities without any federal involvement. It also reduced the upfront nonfederal contribution for municipal and industrial water-supply projects from 100 percent to 20 percent. Even more important, it did not accept the major compromise on user fees, rejecting both the eventual doubling of user fees to 20 cents per gallon and the use of the fees to cover half the cost of constructing inland navigation facilities. Finally, the committee kept in the bill the loan program for municipal water facilities.<sup>62</sup> The committee's redesign of the Senate compromise angered environmental groups especially. While Chairman Howard called the bill "landmark legislation," David Conrad of Friends of the Earth said that the bill "constitutes a reward to those industries that have most stubbornly resisted cost-sharing reforms."<sup>63</sup> After approval by the Public Works and Transportation Committee, the bill was referred concurrently to three other committees: Interior, Merchant Marine, and Ways and Means. Their reports were due back in September so that the final legislative package could be on the floor of the House by early October.<sup>64</sup>

On the Senate side, the Environment and Public Works Committee marked up S. 1567, the "Water Resources Development Act of 1985,"



on 16 July. The legislation included the terms of the supplemental appropriation compromise as well as most of the provisions of the earlier Abdnor legislation, S. 366. It was reported out on 1 August, the final result of more than four years of effort and 26 hearings held by three Congresses.<sup>65</sup> Title VIII (the revenue-raising sections) was referred to Senator Packwood's Finance Committee. Subsequently, the Finance Committee also asked for, and received, jurisdiction over section 606, which authorizes "any appropriate non-Federal sponsor" to levy port fees to recover its cost-sharing obligations for harbor improvements. Packwood began hearings on the bill in September.<sup>66</sup> Unfortunately, a mark-up session seemed to be constantly delayed as the committee faced other urgent budgetary questions. Another problem was that committee staff members needed some time before to become knowledgeable about the legislation.<sup>67</sup>

Meanwhile, on 5 November, H.R. 6 made it to the House floor. It consumed over ten hours of debate before it was overwhelmingly passed, 358-60, on 13 November. The plodding debate provided little theatre; nature advanced more dramatic arguments in favor of passage. As the House debated, over 18 inches of rain fell on the Blue Ridge Mountains, causing flooding in West Virginia, Pennsylvania, Virginia, and Maryland. About a hundred coal barges broke loose on the Monongahela River. Many sank and others pounded the lock gates at Maxwell Lock, closing the river to navigation. Two outmoded locks on the Monongahela were under water as the House considered the need to replace them. Riverside areas of Richmond,

Virginia, and Washington, D.C., were flooded. Fifty people were left dead and thousands homeless.<sup>68</sup> Nature's display was far more compelling than congressional rhetoric.

Not that there were no disputes. Supported by Berkley Bedell of Iowa, Congressman Edgar tried once more to tack on an amendment to make MR&T project separable elements subject to flood control cost-sharing requirements. "It would be unfair," he said, "to allow the rest of the \$5 billion MR&T project to be excluded from the cost sharing that will be applied to every other flood control project in every other member's district in the nation. We should not take the unfair and inequitable step of excluding billions of dollars in flood control projects from the scope of the bill's cost sharing reform merely because we want to have it as one large technical project."<sup>69</sup> In an attempt to meet objections, he agreed to exclude the main stem of the Mississippi and Atchafalaya rivers from the amendment, but that still did not win enough votes. His amendment was defeated, 124-296, and in quick succession others joined it.<sup>70</sup> An effort to impose user fees to recover the non-federal costs of completed projects was voted down, as was an amendment to deauthorize the Elk Creek Dam project in Oregon.

The debate over Elk Creek was an illuminating and sobering illustration of the House at work. The dam had been authorized in the early 1960s, but the Corps subsequently had declared it unnecessary, and the General Accounting Office estimated that every 20 cents of benefits would cost the taxpayer one dollar. When Democratic Representative James Weaver attempted to delete the

project, he offended Robert F. Smith, a Republican from that state, who represented the district where the project was to be located. Smith protested: ". . .not one time do I recall that there was ever a project deauthorized over the objections of the person in that particular district. It did not occur. It did not happen." The House agreed with Smith, 200-220.<sup>71</sup> It was, of course, a case study of the House's deference to individual members when considering local projects.

Congressman Edgar offered other amendments. A particularly controversial one would have directed the Corps to apportion the costs of water projects according to cost-allocation procedures developed through a rule-making process enforceable in the courts. The Interior and Insular Affairs Committee of the House wanted to delete a proposed National Board on Water Resources Policy, a replacement for the deactivated Water Resources Council. However, the committee decided not to offer the amendment when it became apparent that Congressman Roe opposed it and that the House was unwilling to vote for any amendment not favored by the subcommittee chairman.<sup>72</sup>

Somewhat surprisingly, considering the passion generated over the years, there was little debate on cost sharing. Ad valorem fees were to pay for 30 to 40 percent of federal maintenance dredging at deep-draft harbors. One-third of the cost of seven new lock and dam projects was to be funded out of fuel-tax revenues, and non-federal interests were to pay at least one-quarter of the cost of new flood control projects. The Tennessee-Tombigbee

Waterway was added to the list of inland waterways subject to the fuel tax. Unlike the Senate bill (and the June compromise), the bill did not authorize the doubling of the fuel tax to 20 cents per gallon over the next ten years.<sup>73</sup>

The House approved the measure, 358-60. The estimated price tag for the 230 projects authorized in the bill was somewhere between \$13 and \$20 billion. Edgar said in what was for him an understatement, "It's not a perfect bill. . . . the shopping list is too large." However, he also pointed out that the long shopping list was exactly what obtained the necessary support for the bill despite the substantial changes in cost sharing. Howard asserted that the large number of projects was needed "to prevent flooding, dredge harbors and rehabilitate aging locks on inland waterways. . . . While the total number of projects appears large, it must be remembered that they represent well over a decade of detailed planning and study . . . and will form the basis of the nation's water resources program for the rest of the century."<sup>74</sup> He might have added "and well into the twenty-first century."

Neither the White House nor the environmental community were happy with H.R. 6. "If something like this were presented to President Reagan, he'd zap it in a minute," said one administration official. "It's a beauty."<sup>75</sup> Brent Blackwelder of the Environmental Policy Institute, suggested that "they're really starting to scrape the bottom of the barrel now." He laconically added, "Efficiency is not a feature of this House bill."<sup>76</sup> One provision that especially upset the environmentalists extended

federal maintenance of shoreline erosion projects from 15 to 50 years. Blackwelder asserted that repairing all the seawalls and jetties would cost \$225 million and that fighting the ocean's natural movements was "tantamount to trying to hold clouds in place."<sup>77</sup>

Unfortunately for water project developers, progress in the Senate did not go nearly so rapidly as in the House. It was not until 11 December that the Senate Finance Committee marked up S. 1567. It approved the .04 percent ad valorem cargo tax and the doubling of the inland waterways user fee to 20 cents by 1997. In so doing, it accepted the provisions of the June compromise. Dawson concluded that the Senate bill "is reasonable, workable, equitable, and signable by the President."<sup>78</sup>

Dawson spoke with increased authority since just the previous week he had finally been confirmed as Assistant Secretary of the Army, Civil Works. He had been Acting Secretary since May 1984, and his nomination had been formally submitted the following April. Objections to his conservative stance on regulating dredging and fill operations in wetlands provoked substantial criticism and extensive debate. In particular, Senator John H. Chafee of Rhode Island thought Dawson's approach inaccurately interpreted both judicial guidance and congressional mandates. The lengthy debate postponed the vote on Dawson's confirmation. When he finally was confirmed, Dawson could concentrate more fully on water resources legislation, much to the relief of the Corps of Engineers.<sup>79</sup>

Dawson's commitment to passage of a water bill was undeniable.

In the winter of 1985-1986, he held numerous meetings and made scores of speeches to muster support for the June compromise and, more generally, S. 1567, the Senate water resources legislation, which contained the cost-sharing and revenue provisions so important to the administration.<sup>80</sup> He addressed the American Association of Port Authorities on 17 September at its annual convention in Portland, talked to its staff in Northern Virginia on 18 October, addressed the National Water Resources Association Convention in early November, and took his message to the Western States Water Council and the Lower Mississippi Valley Flood Control Association (the MR&T project's major lobbying organization) in December. He also spoke to numerous other water districts, environmental organizations, and navigation groups.<sup>81</sup>

Throughout the winter, Dawson took every opportunity to lobby for a "signable" water bill. In his Pentagon office, he met with representatives of inland navigation, deep-draft ports, flood control organizations, water-supply groups, and environmental associations. His message was always the same: "now or never." He described H.R. 6 as "seriously flawed" but said the Abdnor bill "is signable today." On 31 January, he wrote Senators Byrd and Dole of the "historic opportunity to reform the water resources development program in America." He added a handwritten postscript: "We urgently need your help on this. I believe the future of the Army civil works program is at stake."<sup>82</sup> The same day, Dawson wrote letters to Senators Stafford, Abdnor, Bentsen, Moynihan, Packwood, and Long urging passage of S. 1567.<sup>83</sup> Two

days before, Senator Stafford had inserted in the Congressional Record a statement putting the administration on record in support of the Abdnor bill.<sup>84</sup>

However, S. 1567 did not reach the Senate floor until 14 March. Other budgetary issues, including the first sequestration order under the Gramm-Rudman-Hollings Budget Deficit Act, took precedence. Debates on aid to the Philippines, allowing television cameras in the Senate chamber, and the approval of a genocide treaty also occupied the Senate's attention. Aside from those obstacles, a more immediate concern was the objection of Senator Slade Gorton of Washington to the ad valorem provisions of the bill to recover the costs of maintenance dredging. Gorton and other senators from states close to Canada and Mexico argued with some justification that ports in their states would lose business to neighboring countries should the ad valorem fee be imposed. Gorton was especially interested in protecting the ports of Seattle and Tacoma. He wanted Canadian cargo moving through these ports (either from or to Canada) to be exempt from the ad valorem assessment. Otherwise, the United States could provide the port of Vancouver, British Columbia, an unrequested windfall. The administration was reluctant to go along because it would mean losing some \$5 million annually in revenues nationwide.<sup>85</sup>

Once more, Senator Dole entered the picture. On 13 March, the day the Abdnor bill was originally scheduled for consideration, Dole convened a meeting in his office at 9:30 a.m. that lasted the whole day. Besides Dole, Senators Stafford, Abdnor, Packwood, and

Gorton were present. Packwood feared that any exemption from the ad valorem fee would result in a presidential veto of the entire bill. Alarmed by the intensity of the debate and fearing once more that water resources legislation would be derailed at the eleventh hour, Dole called on Secretary of Treasury James A. Baker III, to offer an administration compromise. At about 4:00 p.m., a Treasury Department representative handed Senator Gorton a "final proposal" that, with a couple of minor changes, he accepted. The proposal, which was inserted into section 4462 of the Senate bill, exempted "bonded commercial cargo entering the United States for transportation and direct exportation to a foreign country" from ad valorem fees. However, were Canada to impose "a substantially equivalent fee or charge on commercial vessels or commercial cargo utilizing Canadian ports," the ad valorem provisions would apply.<sup>86</sup>

Another last-minute issue threatening passage of the legislation dealt with the Tug Fork flood-protection project, located on the Tug and Levisa forks of the Big Sandy River near the West Virginia-Kentucky border. A 1980 appropriations act authorized a project consisting of floodwalls, dams, levees, and relocations costing over \$250 million. Some work already had been done, and Senator Robert Byrd, the powerful minority leader from West Virginia, had assumed that the cost-sharing provisions of the Abdnor bill would not apply. The problem was similar to the MR&T cost-sharing issue, but on a smaller scale. However, Byrd's considerable power magnified the problem. The senator viewed the



"separable elements" as one authorized project, but the Army Corps of Engineers, in line with administration policy, announced its intention to apply cost-sharing provisions to the separable elements remaining to be constructed. Byrd was adamant. He thought that the Corps' interpretation violated earlier commitments. He slowed down the pace of debate on 14 March, interceded with the new OMB Director, James C. Miller III, and then set up a meeting on 24 March that lasted the whole afternoon. Several Tug Fork leaders were present; Dawson represented the administration. The Assistant Secretary finally came up with an interpretation that eliminated the last threat to S. 1567. He decided that a project at South Williamson, Kentucky, was technically already under construction and that a second project at Matewan, West Virginia, would be started by 15 May. Consequently, both "separable elements" were exempt from new cost-sharing requirements.<sup>87</sup>

During floor debate on 14 March, some 81 amendments were accepted. Of these 65 were contained in a lengthy "committee amendment"; most were of a technical nature. Some senators from the lower Mississippi area once more expressed concern about including the MR&T project under the cost sharing provisions, but this issue did not spark the fireworks that had occurred in the House. Dawson had been able to mollify many of the region's senators by noting in a 20 February letter that only about 14 percent of the remaining MR&T work would be subject to cost sharing.<sup>88</sup>

By the time the bill came up for vote on 26 March, with the Tug Fork issue decided two days before, there was little left to debate, although Senator Byrd cautiously inserted in the Congressional Record a letter he had requested from Secretary Dawson that committed the Army to the Tug Fork compromise.<sup>89</sup> Twenty-four amendments were adopted, most involving project modifications. At the end of the debate, in accordance with normal Senate procedure, Senator Stafford moved to postpone consideration of S. 1567 and instead to amend H.R. 6 by substituting all of S. 1567 for the House-passed legislation. By voice vote, the senators agreed, thereby approving authorization for 181 projects at a projected cost of some \$11.5 billion. In one last act, Senators Moynihan, Stafford, and Abdnor thanked the committee staff for its hard work. It was a well-deserved tribute.<sup>90</sup>

Twelve senators were named to the committee conference to resolve conflicts between the House and Senate versions of H.R. 6. Seven came from the Environment and Public Works Committee and five from the Finance Committee. The House did not proceed nearly so quickly or smoothly. A jurisdictional dispute between the Public Works and Transportation Committee and the Merchant Marine and Fisheries Committee over port provisions, especially cost sharing for new construction, delayed the appointment of House conferees for seven weeks. Speaker O'Neill finally decided in favor of Congressman Howard and the Public Works Committee, although Merchant Marine retained representation in the conference on some other parts of the bill. The Interior and Insular Affairs

Committee also was involved in reviewing four titles, and the Ways and Means Committee was represented in discussions dealing with revenue provisions. In all, the House named 39 conferees.<sup>91</sup>

Although the House-Senate conference took months to resolve a number of sensitive issues--particularly those dealing with cost sharing, use of the Inland Waterways Trust Fund, port fees, separable elements, and project deauthorizations--the Corps of Engineers and the Assistant Secretary of the Army, Civil Works, accelerated efforts to prepare for a new era in water resources development. This initiative already had begun in earnest the previous summer after passage of the Supplemental Appropriations Act. The focus was on the Corps' planning process. Secretaries Gianelli and Dawson had wanted the Corps to cost-share studies ever since the two had come to the Pentagon at the beginning of the Reagan administration, but Congress had always objected. However, both the Senate and House bills contained provisions for cost-sharing feasibility studies, so Dawson finally decided to go ahead on his own.<sup>92</sup> On 18 December 1985, he ordered the Director of Civil Works to require equal federal-nonfederal cost sharing of feasibility studies initiated after 1 January 1986 and to share the costs of feasibility studies incurred after 15 March 1986. In the two-phased planning model used by the Corps, preliminary and less detailed reconnaissance studies would remain federally funded.

Subsequently, the planning division of the Civil Works Directorate developed a document called "A Plan for Planning in 1986." The report reassessed Corps planning "so that study cost

sharing can be implemented in a manner that will improve the non-Federal sponsor decision making equity, the certainty of planning outcomes, our [Corps] responsiveness to local needs, and planning efficiency."<sup>93</sup> In short, the document suggested the ways that greater local contributions would inevitably lead to greater nonfederal involvement in the planning process and discussed the ramifications of this change. Within a short time, a new regulation came from the Office of the Chief of Engineers that specified Corps procedures to be followed in cost-sharing studies.<sup>94</sup>

At meetings in field offices around the country, personnel discussed the Corps' changing role. The implications of the change were not always easily accepted. It was clear that sharing the cost meant also sharing the management, an alien concept to the Corps' civil works community. However, Major General Henry Hatch, the Director of Civil Works, was greatly impressed by the work of the planning division and threw his support behind the new orientation. Rather than "customers," he spoke of "partners." He was so enthusiastic about the "Plan for Planning" document that he expressed interest in having a similar document done for the civil works design and construction arms of the Corps.<sup>95</sup> He spoke of a "cultural change" that cost sharing required, but he was not oblivious to the obstacles. While many accepted reorientation relatively easily, Hatch noted that among some of the Corps' more prominent designers, "the initial attitude was one of . . . unacceptable arrogance."<sup>96</sup> The question of what was to be

negotiated and what was to be left to the Corps' judgment could not be decided without examining both the new political environment and one's organizational and professional values. Such critical analysis never comes easily.

While the Corps developed a new planning process, Assistant Secretary Dawson attempted to ensure that there would be new water projects to plan. This involved two major efforts. First, Dawson aggressively pursued local cooperation agreements (LCAs) on cost sharing with nonfederal interests whose projects had been authorized and funded in the 1985 Supplemental Appropriations Act. By the end of April, the Corps' Washington office had received 30 LCAs. A special local cooperation agreement review committee had cleared 13 and had forwarded 8 to the Office of the Chief of Engineers for review. Five had been sent to the Assistant Secretary's office for final approval and three had been signed. Two of those were with Virginia Beach, Virginia, for flood control work and a harbor project, and one was with Cowlitz County, Washington, and several other local entities to construct a debris retention dam at Mt. St. Helens.<sup>97</sup>

The Corps was optimistic. Lieutenant General Heiberg, who had become Chief of Engineers in September 1984, thought that most of the local sponsors of the 41 Corps projects authorized in the supplemental bill would sign LCAs before the 30 June 1986 deadline set by Congress.<sup>98</sup> His prediction was fairly accurate. By the end of June, 33 LCAs had been signed, of which 31 were among those authorized and funded in the 1985 Supplemental Appropriations Act.

Secretary Dawson approved construction on 17 of these projects--mostly flood control--once final design was determined. However, he waited for legislation providing for new user fees before approving work on the other, mainly navigation, projects.<sup>99</sup> The success of Dawson and the Corps in negotiating these LCAs was important, for it showed that at least some nonfederal interests were willing to accept new, more stringent cost-sharing requirements. As General Hatch said, "The LCA process provided the basic litmus test for the whole notion of cost-sharing."<sup>100</sup>

Dawson's second effort was to do everything he could to promote passage of a water resources bill satisfactory to the administration. Over the 1986 Memorial Day recess, he sent the House and Senate conferees a 5-page cover letter and a detailed 120-page enclosure setting forth the administration position on both bills. In particular, he noted specific administration objections and insisted that the final bill implement "adequate revenue-generating provisions," reject "new programs and bureaucracies," deny "special treatment of certain projects and regions," increase nonfederal cost sharing "without special exceptions," and control the impact of waterway expenditures on the federal deficit.<sup>101</sup> In mid-July, he enlisted the aid of the Secretary of the Army, John O. Marsh, Jr. "In the next month," Dawson began, "I believe we will win or lose our legislative effort to reform the way water projects are paid for throughout the country." He noted that passage of legislation the President could sign was "absolutely essential to continuation of the Federal water

project construction program and to the maintenance of the Corps of Engineers' civil construction capabilities. These capabilities are an important defense resource not only in time of mobilization but in peacetime as well." Dawson suggested that Marsh encourage expeditious conference committee action to produce "signable" legislation whenever Marsh crossed paths with the appropriate members of Congress.<sup>102</sup>

Dawson's anxiety had significantly increased by the middle of July. The conference committee seemed to be stalemated, and he decided to press matters as much as he could. Along with Lieutenant General Heiberg, Dawson made an hour-long videotape that updated all the Corps field offices on the status and the importance of the legislation. He continued to make speeches with the by-then familiar themes: "now or never" and "our biggest enemy is the clock."<sup>103</sup> On 14 July, he had four consecutive meetings with port, inland waterway, flood control, and other water resources interests, including environmentalists. A week later, a highly unusual meeting took place in which four Corps retired generals (Clarke, Morris, Bratton, and Ernest Graves, a former Deputy Chief of Engineers) joined with the Sierra Club, National Audubon Society, and National Wildlife Federation to call upon Congress to pass new water resources legislation. "The anomaly of the National Wildlife Federation on the same side of the table with the Corps of Engineers ought not to be overlooked," observed Lynn Greenwalt, a federation vice president and former director of the Fish and Wildlife Service, who also represented the other

environmental organizations at the meeting.<sup>104</sup> On 1 August, Dawson wrote a letter to 59 senators and 90 congressmen who came from districts or states having projects included in both the Senate and House versions of H.R. 6. He asked them "to support a quick conclusion of deliberations by the Conference Committee on H.R. 6. This opportunity represents our best, and perhaps last, chance to implement needed water resources projects and policies in a responsible and fiscally sound manner."<sup>105</sup>

By 16 August, when Congress recessed for three weeks, staff members of the conference committee had been meeting for nearly 2-1/2 months. Committee staffers had begun negotiations soon after Senate and House conferees held their first and only conference, a 30-minute organizing session, on 5 June. The staff meetings occurred several times a week and included evenings and weekends. They were mainly closed-door sessions, which started at a fast pace and then were suspended a couple of weeks later when House staffers claimed that Chairman Roe's schedule prevented him from providing necessary guidance. Roe was tied up with hearings on the Challenger space shuttle disaster in the Science and Technology Committee, which he was to head in the next congressional session. Actually, the problem may have been more than Roe's schedule. Michael Strachn, Chief of the Legislative Coordination Branch in the Corps' Civil Works Directorate, observed that Roe had become so knowledgeable about and involved with the bill that staff members "felt compelled to clear with him virtually all significant provisions." Roe, in turn, might consult with a committee member



before getting back to the staff. "When you have 400 or 500 situations like that it is just time-consuming. The weight of the work was oppressive."<sup>106</sup> Finally, Senator Abdnor and Congressman Roe met and got the conference back on course.<sup>107</sup>

The negotiations covered virtually every facet of the legislation and, while the most intensive discussions centered on major problems of national concern, even the most mundane items could generate animated debate. One example was the changing of names of water projects, usually to honor a congressman or local dignitary. The House was much more lenient about name changes and had no compunction about honoring someone still politically active. On the other hand, the Senate generally honored only those who were deceased or at least retired for some time. Consequently, Senate staffers often objected to House-proposed name changes.<sup>108</sup>

In July, a major problem occurred when House members refused to negotiate the complicated cost-sharing issue without knowing the Senate's position on the approximately 125 projects in the Roe bill that were not included in the Senate version. Senate staffers refused to divulge this information until the House revealed its views on cost sharing. This chicken-and-egg situation deadlocked negotiations. What some had predicted throughout the history of the water resources legislation had come to pass: The ransom for the House projects would be acceptance of the Senate's cost-sharing provisions.<sup>109</sup>

On 23 July, a breakthrough came when House and Senate staffers exchanged "offers"; each side commented on the provisions contained

in the other's bill. For the first time, the House responded to the Senate's cost-sharing and revenue provisions, while the Senate commented on the many House projects. While this cleared the air on various issues, it also initiated a new round of acrimony. House staffers thought they had compromised much more than their Senate counterparts had. They may have been right. Both Senate aides and administration officials were surprised that the House had agreed to about 90 percent of the Senate cost-sharing provisions. House members agreed to the ten-cents-per-gallon increase in the fuel tax, although they wanted the increase to start in 1990 rather than 1988. They also accepted the Senate provision that stipulated that one-half, rather than one-third, of new lock and dam construction be funded out of fuel tax revenues, and the Senate language requiring an additional ten percent nonfederal repayment of construction costs, plus interest, over a period not to exceed 30 years. Finally, House conferees agreed to the Senate's "ability to pay" provision that allowed the Secretary of the Army to waive flood control cost-sharing requirements when the Secretary determined that local interests would have difficulty bearing the financial burden.<sup>110</sup>

For its part, the Senate demanded comprehensive and consistent application of cost sharing and insisted that certain programs authorized in the Roe bill be dropped. These included a program of urban water-supply loans, nonfederal dam safety, and a new National Water Resources Policy Board. The Senate also suggested that an entirely new title be created to cover some 130 projects that had

not yet cleared the desk of the Chief of Engineers. Such projects would be authorized, but the Corps would have to complete its project reviews no later than 31 December 1989.<sup>111</sup>

About a week after the position papers were exchanged, staff meetings resumed. When they did, discussion focused on Congressman Roe's demand that the "political needs" (read "projects") of certain House members be accommodated. The staff members established a review procedure that divided projects into three groups: (1) fully authorized and favorably reviewed by the Corps of Engineers (2) authorized contingent on a favorable Corps report, and (3) authorized up to, but not including, construction. While this process was designed to expedite the conference business, frustration set in within a week. House aides were angry that the Senate continued to object to various projects, while the Senate staffers decried the House's unwillingness to discuss water-supply loans, the water policy board, and other key provisions.<sup>112</sup>

On 13 August, the entire legislative package seemed threatened when House and Senate Public Works Committee staff members remained at loggerheads over a number of issues. Fortunately, the House staff members returned the following day with several compromises that renewed hope for success. The House dropped its insistence on urban water-supply loans and the establishment of a water policy board. It also agreed to subject "separable elements" to cost sharing, but wanted to work out a new definition of such elements.<sup>113</sup> By 16 August, one staff member called the negotiations "80% settled, 10% loose and 10% deferred."<sup>114</sup> Staff

members hoped that the remaining 20-some issues could be resolved before the recess. However, among these items were some of the most vexing issues: how "separable elements" should be defined; what schedule should be used for the gradual imposition of a 10 cent increase in fuel taxes (the final act delayed imposition of the first increase--to 11 cents per gallon--until 1 January 1990); whether an Inland Waterways Users Board should be established; and whether a "direct beneficiary test" (to determine how much particular types of carriers should pay) should be used for assessing local port use fees to finance port improvements. An exchange of offers on the afternoon of 16 August left Congressman Roe unhappy. He asked to meet the senators, but it was 9:30 p.m., too late to accomplish anything further before the recess.<sup>115</sup> At the Pentagon, Dawson ominously remarked that the legislation was "in peril."<sup>116</sup>

Soon after Labor Day, the conference staff members resumed negotiations. A House-Senate leadership meeting resolved the definition of "separable elements," agreeing to treat separable elements of previously authorized projects as entirely new projects so far as cost sharing was concerned. This effectively ended attempts to exclude from cost sharing MR&T elements still to be constructed. "To do otherwise," Senator Stafford suggested, "would have endangered the bill at the White House."<sup>117</sup> Comprehensive cost sharing was considered absolutely necessary for administration support.<sup>118</sup>

More difficult to resolve was the "direct beneficiary" issue.

The American Waterways Operators and other water carrier and agricultural groups supported House language that imposed a strict beneficiary test on who pays user fees for port improvements. However, the ports demanded maximum flexibility based on "reasonable benefit." Following a discussion between Roe and Packwood, the conference committee reached a compromise during the second week of October that imposed a direct beneficiary test for collecting fees supporting the deepening of harbors. User fees collected in support of other port improvements would be based on the vessel design.<sup>119</sup>

The last remaining--and nearly fatal--issue was inland navigation taxes or, perhaps more precisely, Congressman Dan Rostenkowski. As a revenue measure, inland navigation taxes belonged to the domain of the Senate Finance and House Ways and Means committees. Much to Roe's dismay, Congressman Rostenkowski, chairman of Ways and Means, delayed consideration of the issue because, he first said, he was too busy with the Budget Reconciliation Act. A few days later, he made it known that he wanted the Senate to approve a new federal building for Chicago and he also wanted the administration to accept a House initiative to require payment of welfare benefits to families with both parents unemployed. Some congressmen discussed a petition to discharge the Ways and Means Committee from further consideration of H.R. 6. However, this move became unnecessary when a compromise was reached on 14 October to lease a building in Chicago. Rostenkowski agreed to drop the welfare proposal until the next session. On Friday, 17

October, conferees from the Senate Finance and House Ways and Means committees met to reach what all hoped would be a quick compromise. Time was critical since congressional leaders were trying to adjourn Congress that afternoon at 5 p.m. Finally, in the early afternoon, an accord was reached and the House promptly agreed to consider H.R. 6.<sup>120</sup>

Congressman Roe paced the aisles waiting for the printed act with all the final changes. Ways and Means staffers meanwhile checked and cleared final language. Congressman Rostenkowski pressed a new amendment in these last anxiety-filled hours. He wanted to add a provision authorizing new work on the Chicagoland Underflow Plan. This was done at 4 p.m. Meanwhile, Congressman Bill Frenzel of Minnesota proposed that the Customs Service costs for administering the port fee program should be paid out of the fees collected. On hearing this, Senator Packwood objected and prevailed. Shortly after 6:30 p.m. the measure reached the House floor; adjournment had been pushed back.

After Congressman Roe introduced the legislation and highlighted its principal points, a few other members took the floor in support of the bill. These included Congressmen Gene Snyder, Bob Edgar, Arlan Stangeland, Jim Howard, and Barbara Mikulski. Roe noted that the legislation was "the product of over 5 years of intensive work by the Subcommittee on Water Resources, including extensive hearings and countless hours of gathering information and consulting interested Members and their staffs."<sup>121</sup> Stangeland took the occasion of thanking by name the

many staff members who had supported the effort.<sup>122</sup> With increasing restlessness and calls for the vote, discussion finally ceased at 7:25 p.m. and the vote was taken. The legislation passed overwhelmingly, 329-11. The drama of the last few hours was climaxed when, to a standing ovation, Speaker Thomas (Tip) O'Neill assumed the chair and gave a short farewell speech to his colleagues. It was the last time he was to preside over a House session.<sup>123</sup>

Two and a half hours later, H.R. 6 was before the Senate. Senator Stafford managed the act on the Senate floor, supported by Senators Abdnor and Moynihan. A few senators were critical of specific measures, but most praised the legislation. At 10:55 p.m., H.R. 6 passed by roll-call vote, 84-2. Wisconsin senators Robert Kasten and William Proxmire were the only dissenting members.<sup>124</sup> H.R. 6--the first major water resources bill since 1970--had passed Congress and in a form acceptable to the administration. Although both the Senate and the House had to meet the following day, a Saturday, to resolve some technical questions prior to adjournment, the Water Resources Development Act of 1986 was the last piece of legislation passed by the 99th Congress.

On 17 November, President Reagan signed the legislation in a small White House ceremony. Attending the ceremony were Senators Stafford, Bentsen, Abdnor, Moynihan, and Domenici and Representatives Howard, Roe, Stangeland, and Helen Bentley of Maryland. From the administration came OMB Director James Miller, Chief of Staff of the White House Donald Regan, and Dawson. No

reporters or congressional staff members were present. The White House put out only a one-sentence press release on the legislation.<sup>125</sup>

Yet, for those who had been involved in the years of hearings, discussions, and debates leading up to WRDA-86, the occasion was, in Secretary Dawson's words, "a very historic moment." Returning to the point he had made so many times during the past year, Dawson said, "This is a new era for water resources development. It was our last chance to get a water resources program and we got it in the nick of time."<sup>126</sup> Congressman Roe agreed. He argued that the act totally modernized the Corps and concluded, "The Corps is back in business."<sup>127</sup>

The financial provisions of WRDA-86 are most significant and make water resources development much more dependent on the health of the market economy. This development is true of everything from new flood control and hydroelectric projects to port construction and inland navigation projects. The increase in fuel taxes to 20 cents after 1994, along with the decision to use the taxes to pay for one-half the cost of replacing seven inland locks, accelerated a development that had begun in 1978. But the conference committee also accepted an administration proposal to establish an 11-member advisory Inland Waterways Users Board, thereby ensuring that users have the opportunity of recommending what projects the fees should fund.<sup>128</sup> The minimum 25 percent nonfederal contribution for constructing flood control projects replaced the policy established in the 1936 Flood Control Act making the federal government



responsible for financing flood control construction. The application of cost sharing to separable elements, in particular to the Mississippi River and Tributaries project, was also a notable deviation from past practice. Perhaps the most revolutionary aspect of the legislation was the requirement that ports pay part of the costs for new construction, with the amount depending on project depths. To recover their share of the financial burden, the law allowed ports to levy port or harbor dues (tonnage fees) that reflected the formula that Packwood and Roe had reached in their October compromise. At the same time, WRDA-86 provided that the Customs Service collect ad valorem fees sufficient to cover up to 40 percent of Corps harbor maintenance costs, except for specific exemptions noted in the act.<sup>129</sup>

In the afterglow of success--or the shadow of failure--it is always difficult to assess how "historic" a development is. The passage of WRDA-86 is no exception to this axiom. The law's importance will be shown in the coming years as the Corps responds to new partnership arrangements, and as nonfederal interests cope with new management--as well as financial--burdens. Certainly, the act goes a long way toward implementing an economic philosophy that asserts that beneficiaries and users should pay much, if not all, of the project's costs. This philosophy is deeply embedded in the country's history, but so is the utilitarian philosophy of Adam Smith (and Albert Gallatin) who insisted that an adequate transportation system was a national, as well as local, responsibility benefiting the nation's entire economy. The two

philosophies, interwoven in the political process, have shaped much of this country's ambivalent approach toward financing public works developments.

Secretary Dawson thought that the cost-sharing provisions of WRDA-86 would give the Corps a new credibility: "The old epithet of pork barrel, which was, justifiably at times, hung around our neck, just won't be available to a critic anymore."<sup>130</sup> The New York Times editorially agreed, at least to a degree. "The cost-sharing formulas can't guarantee that every new water project will be worth the price. But they will force state and local interests to weigh the costs against the benefits more conscientiously and to foot part of the bill for mistakes."<sup>131</sup> Lieutenant General Heiberg, the Chief of Engineers, was more cautious in his assessment. He did not think the law a major change of policy, but only a major change in the relationship between the Corps and project beneficiaries. The law would require the Corps to do business differently and involve nonfederal interests in the planning process much earlier. Still in all, he thought the federal role remained "extremely important. . . . We still have most of the money and almost all the projects."<sup>132</sup> Whether WRDA-86 justifies the effusive claims of Dawson and Roe or the more qualified assessment of Heiberg remains to be seen. One fact seems undeniable, however: As never before, federal and nonfederal interests will be challenged to work together to develop projects that are economically, environmentally, and socially responsible.

## NOTES

1. Washington Watch, 23 January 1985, p. 5.
2. The Interstate Conference on Water Problems and the U.S. Army Engineer Institute for Water Resources, Digest of Proceedings, Policy Study 85-PS-2 (Fort Belvoir, Virginia: Institute for Water Resources, August 1985).
3. Washington Watch, 23 January 1985, p. 5.
4. Quoted in *ibid.*, p. 5; see also the AWO Weekly Letter, 1 February 1985.
5. Don Cluff to Frederick N. Khedouri, subj: Additional Information for Your Meeting with Stafford and Abdnor, 28 January 1985 (copy); Cluff to Khedouri, subj: Corps User Fees, 31 January 1985 (copy), both in Cluff papers, WRDA-86 files, OH, HQ USACE. Those who wish to know more about the complicated congressional budget process should consult, Roger H. Davidson and Walter J. Oleszek, Congress and Its Members, 2d ed. (Washington, DC: Congressional Quarterly, Inc., 1985), pp. 327-337; Stanley E. Collender, The Guide to the Federal Budget, Fiscal 1991 (Washington, DC: The Urban Institute Press, 1990), pp. 17-31; and Congressional Quarterly, Inc., How Congress Works (Washington, DC: Congressional Quarterly, Inc., 1983), pp. 32-34, 44-46.
6. Transcript, interview with Michael Strachn, Chief Legislative Coordination Branch, Headquarters, U. S. Army Corps of Engineers, 7 January 1988, p. 55, OH, HQ USACE; Robert K. Dawson to the Honorable Thomas P. O'Neill, 20 February 1985 (copies of two letters from Dawson to O'Neill), Cluff papers, WRDA-86 files, OH, HQ USACE.
7. Washington Watch, 4 March 1985, p. 4; AWO Weekly Letter, 22 February 1985; Cluff, "Congressional/Executive Negotiations," p. 7 (draft), Cluff papers, WRDA-86 files, OH, HQ USACE.
8. Quoted in Washington Watch, 4 March 1985, pp. 5-6.
9. Transcript, interview with Hal Brayman, 13 January 1988, p. 31.
10. Transcript, Davis interview, p. 10.
11. Transcript, Arnold interview, p. 47. The authorization bill became S. 534 and H.R. 1557. The Inland Navigation bill became H.R. 1558.

12. AWO Weekly Letter, 22 February 1985; Dawson to O'Neil, 20 February 1985 (copy), Cluff papers, WRDA-86 files, OH, HQ USACE.
13. AWO Weekly Letter, 1 February 1985, underlining in the original.
14. Transcript, Arnold interview, pp. 48-52.
15. Quoted in Washington Watch, 4 March 1985, pp. 6-7.
16. Ibid., 26 April 1985, p. 3.
17. Ibid., pp. 3-5.
18. AWO Weekly Letter, 4 January 1985.
19. Quoted in ibid., p. 6.
20. Ibid.
21. Washington Watch, 12 June 1985, p. 6.
22. Quoted in ibid., p. 7.
23. Quoted in Washington Watch, 12 June 1985, p. 7.
24. Ibid.
25. See Davidson and Oleszek, Congress and Its Members, pp. 327-328. Appropriations Committee Chairman Jamie Whitten had already agreed to delete the 31 nonauthorized projects from the bill that had been introduced, but his amendment would have retained the funding for both authorized and nonauthorized projects. Edgar's amendment reduced the appropriation to cover only authorized projects.
26. David A. Stockman to Silvio Conte, 21 May 1985 (copy), Cluff papers, WRDA-86 files, OH, HQ USACE.
27. For the debate on the rules change and, subsequently, on H.R. 2577, see the Congressional Record 131, part 11, 6 June 1985, pp. 14570-632; for the final vote, see ibid., 12 June 1985, pp. 15468-69.
28. For the Administration position on the House-passed bill, see "H.R. 2577: Supplemental Appropriations Act, 1985," draft version, 11 June 1985 (copy), Cluff papers, WRDA-86 files, OH, HQ USACE; Cluff, "Congressional/Executive Negotiations," p. 10 (draft), Cluff papers, WRDA-86 files, OH, HQ USACE.
29. Congressional Record 131, part 11, 6 June 1985, p. 14618.

30. Ibid., p. 14623.
31. Transcript, Davis interview, pp. 11-12; Transcript, interview with Harry Cook, President, National Waterways Conference, 3 February 1988, pp. 39-40, OH, HQ USACE.
32. Transcript, Arnold interview, p. 59.
33. Transcript, Davis interview, p. 18; transcript, Arnold interview, pp. 58-59.
34. Cluff, "Congressional/Executive Negotiations," p. 9 (draft), Cluff papers, WRDA-86 files, OH, HQ USACE.
35. Memorandum to National Waterways Conference Members from Eric Ries, Administration Assistant, NWC, 3 July 1985; transcript, interview with former Senator James Abdnor by Martin Reuss, 8 February 1988, p. 19, OH, HQ USACE; Cluff, "Congressional/Executive Negotiations," p. 9 (draft), Cluff papers, WRDA-86 file, OH, HQ USACE. The Congressional Budget and Impoundment Act of 1974 requires each House of Congress to pass budget resolutions to set financial guidelines for the committees. While this exercise provides more systematic budget review, it is not legally binding on Congress. For more on this, see Collender, The Guide to the Federal Budget, pp. 17-19, and Davidson and Oleszek, Congress and Its Members, pp. 330-333.
36. Congressional Record 131, part 11, 11 June 1985, pp. 15155-56 (for Bureau of Reclamation section of the supplemental bill); Cluff, "Congressional/Executive Negotiations," pp. 9-10 (draft), Cluff papers, WRDA-86 files, OH, HQ USACE; Eric Ries, Administrative Assistant, NWC, to NWC members, 3 July 1985, WRDA-86 files, OH, HQ USACE.
37. Cluff, "Congressional/Executive Negotiations," pp. 11-12 (draft), Cluff papers, WRDA-86 files, OH, HQ USACE.
38. Eric Ries Memorandum, NWC, 3 July 1985.
39. Telephone conversation with Tom Skirbunt, 23 July 1990.
40. Transcript, Arnold interview, p. 61; Eric Ries Memorandum, NWC, 3 July 1985.
41. Transcript, Abdnor interview, pp. 15-16.
42. Transcript, Abdnor interview, pp. 6-7; Transcript, Skirbunt interview, pp. 45-47; telephone conversation with Skirbunt, 23 July 1990.

43. Telephone interview with Arlene Dietz, Chief, U.S. Army Corps of Engineers Navigation Data Center, 26 July 1990; Stockman's letter to Danforth is reprinted in the Congressional Record 131, part 12, 20 June 1985, p. 16710.
44. David Whitney, "Waterway Compromise Balances Fees, Construction," The Oregonian, 22 July 1985.
45. Cluff, "Congressional/Executive Negotiations," pp. 11-13 (copy), Cluff papers, WRDA-86 files, OH, HQ USACE; Congressional Record 131, part 12, 20 June 1985, pp. 16708-13; see also, Helen Dewar, "Accord Set on Water-Projects Funding," Washington Post, 22 June 1985; Western Resources Wrap-Up XXIII, no. 26 (27 June 1985).
46. Telephone interview with Arlene Dietz.
47. Washington Watch, 15 August 1985.
48. Congressional Record 131, part 12, 20 June 1985, pp. 16710-13.
49. Transcript, Arnold interview, p. 65.
50. Stockman traces the history of his disillusionment in The Triumph of Politics: Why the Reagan Revolution Failed (New York: Harper and Row, 1986).
51. Ibid.
52. Washington Watch, 11 October 1985, pp. 6-7.
53. Transcript, Roe interview by Reuss, pp. 30-31.
54. Transcript, Stangeland interview, pp. 23-24.
55. Cluff, "Congressional/Executive Negotiations," pp. 13-14 (draft), Cluff papers, WRDA-86 files, OH, HQ USACE.
56. Ibid., pp. 14-15.
57. Congressional Record 131, part 16, 31 July 1985, pp. 21810-11.
58. Washington Watch, 14 November 1985, pp. 3-4. Section 103(f) of WRDA-86 defines "separable element" as one that (1) is physically separable from other portions of the project and (2) achieves hydrologic effects or produces physical or economic benefits that are separately identifiable from those produced by other portions of the project.
59. Quotes in Congressional Record 131, part 16, 21 July 1985, pp. 21813-14.

60. Ibid, p. 6; Margaret Shapiro, "258-170 House Vote Backs Freeze on Water Projects," Washington Post, 1 August 1985. The bill also contained a controversial appropriation of \$27 million that the Reagan Administration had sought for nonmilitary aid to Nicaraguan rebels.
61. NWC Newsletter, 15 August 1985, p. 6.
62. Elmer W. Lammi, United Press International (UPI) news release, 26 June 1985; U.S., Congress, House, Report of the Committee on Public Works and Transportation to Accompany H.R. 6, Report 99-251, part I, 99th Congress, 1st sess., 1 August 1985, pp. 4-6.
63. Both quotes in Lammi press release, 26 June 1985.
64. NWC Newsletter, 15 August 1985, pp. 4-5.
65. AWO Weekly Letter, 12 July 1985; U.S., Congress, Senate, Report of the Committee on Environment and Public Works, United States Senate to Accompany S. 1567, Report 99-126, 99th Cong., 1st sess., 1 August 1985, p. 116.
66. Newsletter, 15 August 1985, pp. 3-4; Washington Watch, 14 November 1985, p. 5.
67. Transcript, Arnold interview, pp. 68-71.
68. Washington Watch, 14 November 1985, p. 1. The Corps later claimed that its flood control structures had saved \$301 million in property damage. Jim Ross, "Flood Control Dams Saved \$300 Million, Corps Officials Say," Huntington, West Virginia Herald-Dispatch, 18 November 1985.
69. Quoted in Washington Watch, 14 November 1985, p. 3; Congressional Record 131, part 22, 6 November 1985, p. 30768.
70. Ibid., pp. 2-3. This time Roe, Stangeland, and Howard all voted against Edgar's amendment. Roe admitted that he had "reappraised" his position. Congressional Record 131, part 22, 6 November 1985, p. 30775. Unlike the House version, the Senate bill (S. 1567) applied cost sharing to separable elements, including elements of the MR&T project. There was a question whether the section of the supplemental appropriation act excluding the MR&T project would remain in force should S. 1567 become law. Lester Edelman, the Corps General Counsel, thought it would since S. 1567 did not specifically repeal the exclusion. The point became moot with passage of WRDA-86, which applied to separable elements. See Washington Watch, 14 November 1985, p. 4.
71. Congressional Record 131, part 22, 6 November 1985, p. 30818; Cass Peterson, "The Deficit vs. the Pork Barrel," Washington Post, 13 November 1985.

72. Washington Watch, 14 November 1985, pp. 1-2.
73. Ibid., pp. 2-3.
74. Edgar's and Howard's quotes come from Margaret Shapiro, "House Authorizes 230 New Water Projects," Washington Post, 14 November 1985.
75. Quoted in Cass Peterson, "The Deficit vs. the Pork Barrel," Washington Post, 13 November 1985.
76. Ibid.
77. Ibid.
78. Quoted in Western Resources Wrap-Up XXIII, no. 51 (12 December 1985).
79. For more on the confirmation fight, see an unpublished history in the files of the Office of History, U.S. Army Corps of Engineers: Anna Kasten Nelson, "A History of the Office of the Assistant Secretary of the Army for Civil Works," pp. 351-358.
80. Transcript, interview with Robert Dawson, 6 January 1988, p. 10.
81. Western Resources Wrap-Up XXIII, no. 51 (19 December 1985); Washington Watch, 17 January 1986, pp. 3-4.
82. Robert K. Dawson to Senators Robert C. Byrd and Robert J. Dole, 31 January 1986 (copies). File d. S. 1567/H.R. 6. Office of the Assistant Secretary, Civil Works (OASA/CW) files. OH, HQ USACE.
83. Copies of the letters are on file in ibid.
84. AWO Weekly Letter, 14 February 1986.
85. Washington Watch, 19 February 1986, p. 3; Washington Watch, 17 March 1986, p. 1. Gorton explained his position in the 14 March 1986 Senate debate. See the Congressional Record 132, part 4, 14 March 1986, pp. 4992-93.
86. Washington Watch, 17 March 1986, p. 23; H.R. 6 as passed by the Senate on 26 March 1986. WRDA-86 as passed in October 1986 applied the same stipulation to Mexico.
87. Washington Watch, 17 March 1986, p. 1; Washington Watch, 2 April 1986, pp. 3-4.



88. Washington Watch, 17 March 1986, pp. 3-4. Dawson's letter is reprinted in the Congressional Record 132, part 4, 14 March 1986, p. 4955.
89. Dawson's letter is reprinted in the Congressional Record 132, part 5, 26 March 1986, p. 6245.
90. Ibid., pp. 6245, 6268-69. Also see, Philip Shabecoff, "Senate Votes Bill for Water Plans," New York Times, 27 March 1986.
91. Congressional Record 132, part 39, 26 March 1986, p. S 3452; Washington Watch, 23 May 1986, pp. 1-2.
92. Transcript, Blakey interview, p. 35.
93. U.S. Army Corps of Engineers, Office of the Chief of Engineers, Directorate of Civil Works, Planning Division, Committee on Streamlining and Making More Efficient the Planning of Specific Projects, "A Plan for Planning in 1986," January 1986, p. 1. Underlining in the original.
94. Transcript, Blakey interview, p. 37.
95. Transcript, Major General Henry Hatch interview, 14 January 1988, pp. 14-15.
96. Ibid., p. 22.
97. Western Resources Wrap-Up XXIV, no. 18 (1 May 1986).
98. Ibid.
99. U.S. Army Corps of Engineers, Annual Report FY 86 of the Secretary of the Army on Civil Works Activities, I, pp. 1-2.
100. Transcript, Hatch interview, p. 10.
101. Robert K. Dawson to Senator Robert T. Stafford, 21 May 1986 (copy), Cluff papers, WRDA-86 files, OH, HQ USACE. Similar letters were sent to over 40 other senators and representatives. Parts of the letter were quoted in Washington Watch, 18 August 1986, p. 2.
102. Robert K. Dawson to the Secretary of the Army, 10 July 1986. File d. S. 1567/H.R. 6. OASA/CW files, OH, HQ USACE.
103. Quoted in Washington Watch, 18 August 1986, p. 3.
104. Quoted in Guy Darst, "Water Projects," Associated Press dispatch, 21 July 1986. The same day that the meeting was held, the leaders of the three environmental organizations sent a letter to President Reagan expressing support for a water bill that would incorporate "substantially increased cost-sharing, applicable to

all regions of the country, and reasonable increases in user fees for commercial navigation." The letter is reprinted in the Congressional Record 132, part 23, 17 October 1986, p. 33321.

105. Robert K. Dawson to the Honorable Ben Garrido Blaz, 1 August 1986 (copy--identical letter sent to others listed in memorandum for record). File d. S. 1567/H.R. 6. OASA/CW files, OH, HQ USACE.

106. Transcript, Strachn interview, pp. 69-70.

107. Washington Watch, 18 August 1986, pp. 3-4.

108. Transcript, Strachn interview, pp. 75-76.

109. Washington Watch, 18 August 1986, pp. 3-4.

110. Ibid.

111. Ibid., p. 4.

112. Ibid.

113. Ibid.

114. Quoted in ibid, p. 1.

115. Ibid., pp. 1-2, 4.

116. Quoted in Washington Watch, 5 November 1986, p. 2.

117. Ibid., p. 6. Congress took one final swipe at the MR&T project and especially Congressman Whitten when it finally passed the WRDA-86. Whereas the Senate version of H.R. 6 would have applied cost-sharing requirements to projects and separable elements initiated after 14 May 1986, the final act moved the date back to 30 April 1986. This was apparently done to ensure that the provision would cover the Yazoo Backwater Pumping Plant in Whitten's district. Construction had begun on the project on 5 May 1986. The National Wildlife Federation, which had worked hard to ensure passage of legislation, strongly opposed this project. See ibid.

118. McCool, Command of the Waters, p. 203.

119. AWO Weekly Letter, 10 October 1986; Washington Watch, 5 November 1986, p. 2.

120. Except where otherwise noted, the description of the final hours prior to passage of H.R. 6 comes from Washington Watch, 5 November 1986, pp. 2-3.

121. Congressional Record 132, part 23, 17 October 1986, p. 33066.
122. Ibid., p. 33080.
123. Ibid., pp. 33095-99; Washington Watch, 5 November 1986, p. 3.
124. Washington Watch, 5 November 1986, p. 3; Congressional Record 132, part 23, 17 October 1986, p. 33342.
125. Washington Watch, 15 January 1987, pp. 4-5.
126. Quoted from UPI news dispatch, "New Law Changes Public Works Procedures," New York Times, 18 November 1986.
127. Quoted in Rochelle L. Stanfield, "A New Era," National Journal 47 (22 November 1986).
128. Washington Watch, 5 November 1986, p. 5.
129. Ibid., p. 11.
130. Quoted in Stanfield, "A New Era."
131. New York Times, 22 November 1986, p. 30.
132. Transcript, Heiberg interview, pp. 34-35.

## BIBLIOGRAPHY

### A. Archival Sources

Office of History, Headquarters, U.S. Army Corps of Engineers, Fort Belvoir, Virginia:

- National Waterways Conference files
- WRDA-86 files
- William Gianelli files
- Civil Works Policy files
- Civil Works Reorganization files
- News Clips files

Washington National Records Center, National Archives and Records Administration, Suitland, Maryland:

Record Group 77 (Corps of Engineers), Accession 76-004

### B. Congressional Documents (all published by the Government Printing Office except as otherwise noted)

U.S. Congress. Congressional Record.

U.S. Congress. Congressional Budget Office. Efficient Investments in Resources: Issues and Options. Washington, DC: Budget Office, August 1983.

U.S. Congress, Environmental and Energy Study Conference, Fact Sheet, Conference Print. 18 January 1984.

U.S. Congress. House. Laws of the United States Relating to the Improvement of Rivers and Harbors From August 11, 1790 to June 29, 1938. H. Doc. 1491, 62d Cong., 3d sess., 1940.

U.S. Congress. House. Laws of the United States Relating To the Improvement of Rivers and Harbors From August 11, 1790 to January 2, 1939. H. Doc. 379, 76th Cong., 1st sess., 1940.

U.S. Congress. House. Laws of the United States Relating to the Improvement of Rivers and Harbors. H. Doc. 182, 90th Cong., 1st sess., 1968.

U.S. Congress. House. Committee on Public Works and Transportation. Port Development. Hearings, 97th Cong., 1st sess., 1981.

U.S. Congress. House. Committee on Public Works and Transportation. Proposed Water Resources Development Projects of the U.S. Army Corps of Engineers, Hearings, 97th Cong., 2d sess., 1982.

U.S. Congress. House. Committee on Appropriations, Subcommittee on Energy and Water Development. Energy and Water Development Appropriations for 1985, Part I, 98th Cong., 2d sess., 1984.

U.S. Congress. House. Report of the Committee on Public Works and Transportation to Accompany H.R. 6. Report 99-251, part I, 99th Cong., 1st sess., 1985.

U.S. Congress. Senate. Report of the Select Committee on National Water Resources Pursuant to S. Res. 48, 86th Congress, Together with Supplemental and Individual Views. S. Rept. 29, 87th Cong., 1st sess., 1961.

U.S. Congress. Senate. Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources. S. Doc. 97, 87th Cong., 2d sess., 1962.

U.S. Congress. Senate. Committee on Public Works. Civil Works Program of the Corps of Engineers. A Report to the Secretary of the Army by the Civil Works Study Board. 89th Cong., 2d sess., 1966.

U.S. Congress. Senate. Committee on Interior and Insular Affairs. History of the Implementation of the Recommendations of the Senate Select Committee on National Water Resources. Prepared by Schad, Theodore M., and Boswell, Elizabeth M. Committee Print, 90th Cong., 2d sess., 1969.

U.S. Congress. Senate. Committee on Environment and Public Works. A Legislative Background of the Waterway User Charges Legislation During the 95th Congress. Committee Print, 95th Cong., 2d sess., 1978.

U.S. Congress. Senate. Committee on Appropriations. Energy and Water Development Appropriations for Fiscal Year 1982. Hearings, 97th Cong., 1st sess., 1981.

U.S. Congress. Senate. Environment and Public Works Committee. Waterway User Fees. Hearings, 97th Cong., 2d sess., 1982.

U.S. Congress. Senate. Report of the Committee on Environment and Public Works, United States Senate to Accompany S. 1567. Report 99-126, 99th Cong., 1st sess., 1985.

### C. Other Government Documents

Arnold, Joseph L. The Evolution of the 1936 Flood Control Act. Fort Belvoir, Virginia: Office of History, United States Army Corps of Engineers, 1988.

Commission on Organization of the Executive Branch of the Government, Task Force on Water Resources and Power, Report on Water Resources and Power. 3 volumes. Washington, DC: U. S. Government Printing Office, June 1955.

Holmes, Beatrice Hort. A History of Federal Water Resources Programs, 1800-1960. Washington, DC: U.S. Department of Agriculture, Economic Research Service, 1972.

\_\_\_\_\_. History of Federal Water Resources Programs and Policies, 1961-1970. Washington, DC: U.S. Department of Agriculture, Economics, Statistics, and Cooperatives Service, 1979.

Interstate Conference on Water Problems and the U.S. Army Engineer Institute for Water Resources. Digest of Proceedings. Policy Study 85-PS-2. Fort Belvoir, Virginia: Institute for Water Resources, August, 1985.

National Water Commission. Water Policies for the Future: Final Report to the President and to the Congress by the National Water Commission. Washington, DC: U.S. Government Printing Office, 1973.

Presidential Advisory Committee on Water Resources Policy. Water Resources Policy. Washington, DC: U.S. Government Printing Office, 1955.

President's Water Resources Policy Commission. A Water Policy for the American People. Volume I. Washington, DC: U.S. Government Printing Office, 1950.

Reuss, Martin, and Walker, Paul K. Financing Water Resources Development: A Brief History. Washington, DC: Historical Division, Office of Administrative Services, Office of the Chief of Engineers, 1983.

U.S. Army. Corps of Engineers. Annual Report FY 86 of the Secretary of the Army on Civil Works Activities.

U.S. Army. Corps of Engineers. Final Report: Evaluation of the Present Navigation System, National Waterways Study. Fort Belvoir, Virginia: U.S. Army Corps of Engineers Institute for Water Resources, 1982.

U.S. Council on Environmental Quality. Environmental Quality 1981: 12th Annual Report. Washington, DC: Council on Environmental Quality, n.d.

U.S. Department of the Interior. Final Report on Phase I of Water Policy Implementation. Washington, DC: 6 June 1980.

U.S. Department of Transportation. Inland Waterway User Taxes and Charges: Report of the Secretary of Transportation to the United States Congress Pursuant to Section 205, Public Law 95-502, the Inland Waterway Revenue Act of 1978. 1982.

U.S. Federal Register. Part III, volume 38, 1973.

U.S. Water Resources Council. Options for Cost Sharing: Implementation and OM&R Cost Sharing for Federal and Federally Assisted Water and Related Land Programs. Part 5A. Washington, DC: U.S. Government Printing Office, 1975.

#### D. Published Secondary Sources

American Society of Civil Engineers. Water Policy Initiatives: Positions of the National Water Policy Committee of the American Society of Civil Engineers on the President's June 1978 Statements. New York: American Society of Civil Engineers, 1979.

Andrews, Barbara T., and Sansone, Marie, eds. Who Runs the Rivers: Dams and Decisions in the N-w West. Stanford: Stanford Environmental Law Society, 1983.

Baker, Richard Allan. Conservation Politics: The Senate Career of Clinton P. Anderson. Albuquerque: University of New Mexico Press, 1985.

Carter, Jimmy. Keeping Faith: Memoirs of a President. New York: Bantam, 1983.

Clarke, Jeanne Nienaber, and McCool, Daniel. Staking Out the Terrain: Power Differentials Among Natural Resource Management Agencies. Albany: State University of New York Press, 1985.

Collender, Stanley E. The Guide to the Federal Budget, Fiscal 1991. Washington, DC: The Urban Institute Press, 1990.

Congressional Quarterly, Inc. How Congress Works. Washington, DC: Congressional Quarterly, Inc., 1983.

Conservation Foundation. America's Water: Current Trends and Emerging Issues. Washington, DC: The Conservation Foundation, 1984.

Dangerfield, George. The Awakening of American Nationalism, 1815-1828. New York: Harper and Row, 1965.

Davidson, Roger H. and Oleszek, Walter J. Congress and Its Members. 2d edition. Washington, DC: Congressional Quarterly, Inc., 1985.

Dunbar, Robert G. Forging New Rights in Western Waters. Lincoln: University of Nebraska Press, 1983.

Eisenhower, Dwight D. Mandate for Change, 1953-1956. New York: Signet, 1965.

Elazar, Daniel J.; Carroll, R. Bruce; Levine, E. Lester; and St. Angelo, Douglas, eds. Cooperation and Conflict: Readings in American Federalism. Itasca, Illinois: F.E. Peacock Publishers, Inc., 1969.

Francis, John G., and Ganzel, Richard, eds. Western Public Lands: The Management of Natural Resources in a Time of Declining Federalism. Totowa, New Jersey: Rowman & Allanheld, 1984.

Freshwater Foundation. Water Management in Transition 1985: A Special Report by the Freshwater Society. Navarre, Minnesota: The Freshwater Foundation/Society, 1985.

Harrison, Robert W. Alluvial Empire. Volume I. Little Rock, Arkansas: Pioneer Press, 1961.

Hays, Samuel P. Conservation and the Gospel of Efficiency: The Progressive Conservation Movement, 1890-1920. Cambridge: Harvard University Press, 1959.

Hill, Forest G. Roads, Rails & Waterways: The Army Engineers and Early Transportation. Norman: University of Oklahoma Press, 1957.

Hundley, Norris. Water and the West: The Colorado River Compact and the Politics of Water in the American West. Berkeley: University of California Press, 1975.

Leuchtenburg, William Edward. Flood Control Politics: The Connecticut River Valley Problem, 1927-1950. Cambridge: Harvard University Press, 1953.

Maass, Arthur; Hufschmidt, Maynard M.; Dorfman, Robert; Thomas, Jr., Harold A.; Marglin, Stephen A.; and Fair, Gordon Maskew. Design of Water-Resource Systems: New Techniques for Relating Economic Objectives, Engineering Analysis, and Governmental Planning. Cambridge: Harvard University Press, 1962.



Maass, Arthur. "Public Investment Planning in the United States: Analysis and Critique." Public Policy 18, 2 (Winter 1970): 211-43

Marcus, Henry S., et. al. Federal Port Policy in the United States. Cambridge: MIT Press, 1976.

Martin, Roscoe C.; Birkhead, Guthrie S.; Burkhead, Jesse; and Munger, Frank J. River Basin Administration and the Delaware. Syracuse: Syracuse University Press, 1960.

McCool, Daniel. Command of the Waters: Iron Triangles, Federal Water Development, and Indian Water. Berkeley: University of California Press, 1987.

Miller, James Nathan. "Bitter Battle of the Waterways." The Reader's Digest 111 (September 1977).

Neustadt, Richard E. Presidential Power, Revised edition. New York: John Wiley & Sons, 1980.

Palmer, Tim. Endangered Rivers and the Conservation Movement. Berkeley: University of California Press, 1986.

Pemberton, William E. Bureaucratic Politics: Executive Reorganization During the Truman Administration. Columbia: University of Missouri Press, 1979.

Reid, T.R. Congressional Odyssey: The Saga of a Senate Bill. New York: W.H. Freeman and Co., 1980.

Reisner, Marc. Cadillac Desert: The American West and Its Disappearing Water. New York: Viking Press, 1986.

Reuss, Martin. "Andrew A. Humphreys and the Development of Hydraulic Engineering: Politics and Technology in the Army Corps of Engineers, 1850-1950." Technology and Culture 26, no. 1 (January 1985).

\_\_\_\_\_, interviewer. Water Resources People and Issues: An Interview with William R. Gianelli. Fort Belvoir, Virginia: Office of the Chief of Engineers, 1985.

Ripley, Randall B. and Franklin, Grace A. Congress, the Bureaucracy, and Public Policy. Homewood, Illinois: The Dorsey Press, 1984.

Schilling, Kyle; Copeland, Claudia; Dixon, Joseph; Smythe, James; Vincent, Mary; and Peterson, Jan. The Nation's Public Works: Report on Water Resources. Washington, DC: National Council on Public Works Improvement, 1987.

Schwarz, John E. America's Hidden Success: A Reassessment of Public Policy from Kennedy to Reagan. Revised edition. New York: W.W. Norton and Co., Inc., 1987.

Seely, Bruce E. Building the American Highway System: Engineers as Policy Makers. Philadelphia: Temple University Press, 1987.

Stockman, David. The Triumph of Politics: Why the Reagan Revolution Failed. New York: Harper and Row, 1986.

Swain, Donald C. Federal Conservation Policy, 1921-1933. Berkeley: University of California Press, 1963.

Teclaff, Ludwik A. The River Basin in History and Law. The Hague: Martinus Nijhoff, 1967.

Tindall, George Brown. America: A Narrative History, 2nd edition, 2 vols. New York: W. W. Norton, 1988.

Viessman, Jr., Warren, and Schilling, Kyle E., eds. Social and Environmental Objectives in Water Resources Planning and Management. New York: American Society of Civil Engineers, 1986.

Vig, Norman J. and Kraft, Michael E., eds. Environmental Policy in the 1980s: Reagan's New Agenda. Washington, DC: CQ Press, 1984.

Voigt, William, Jr. The Susquehanna Compact: Guardian of the River's Future. New Brunswick, New Jersey: Rutgers University Press, 1972.

Wills, Garry. Reagan's America. New York: Penguin Books, 1987.

#### E. Unpublished Dissertations and Reports

Nelson, Anna Kasten. "A History of the Office of the Assistant Secretary of the Army for Civil Works." Draft completed in 1990. Manuscript files, OH, HQ USACE.

Pross, Edward L. "A History of Rivers and Harbors Appropriations Bills, 1866-1933." Ph.D. dissertation. The Ohio State University, 1938.

Stine, Jeffrey Kim. "Environmental Politics and Water Resources Development: The Case of the Army Corps of Engineers During the 1970s." Ph.D. dissertation. University of California, Santa Barbara, 1984.

Yoe, Charles. "The Declining Role of the U.S. Army Corps of Engineers in the Development of the Nation's Water Resources." Unpublished report. Fort Collins, Colorado: Colorado Water Resources Research Institute, Colorado State University, 1981.

F. Newspapers and Magazines (from News Clips files, OH, HQ USACE)

Christian Science Monitor  
Chronicle (Houston)  
Engineering News Record  
Herald-Dispatch (Huntington, West Virginia)  
Journal of Commerce (New York)  
National Journal  
News American (Baltimore)  
New Orleans Times Picayune  
New York Times  
Nonpareil (Council Bluffs, Iowa)  
The Oregonian  
Post-Dispatch (St. Louis)  
Telegraph (Macon, Georgia)  
Wall Street Journal  
Washington Post

G. Newsletters and Circulars

American Waterways Operators Weekly Letter  
Interstate Conference on Water Problems Washington Report  
National Waterways Conference Newsletter  
National Waterways Conference Washington Watch  
Western Resources Wrap-Up

H. Oral History Interviews

Except where otherwise indicated, all interviews were conducted jointly by Martin Reuss and Evan Vlachos. Transcripts are in the collections of the Office of History, Headquarters, U.S. Army Corps of Engineers.

Abdnor, James (Reuss only), 8 February 1988  
Arnold, Jeffrey, 17 February 1988  
Blackwelder, Brent, 15 January 1988  
Blakey, Lew, 12 January 1988  
Brayman, Hal, 13 January 1988  
Caulfield, Henry P., Jr. (Reuss only), 5-6 November 1986  
Cluff, Donald, 15 December 1987 (not transcribed)  
Cook, Harry (Reuss only), 3 February 1988

Davis, Randall (Reuss only), 23 February 1988  
 Dawson, Robert, 6 January 1988  
 Dickey, Edward, 14 December 1988  
 Dickey, Edward (Reuss only), 24 May 1988 (Telephone)  
 Dietz, Arlene, 16 February 1988  
 Doyle, John, 15 January 1988  
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 Edgar, Robert (Reuss only), 29 February 1988  
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 Garrabrant, Ann, 17 January 1988  
 Graves, Earnest, (Frank N. Schubert), February-April 1985  
 Hatch, Henry, 14 January 1988  
 Heiberg, E.R., III, 7 January 1988  
 Hofman, Dirk (Reuss only), 20 January 1988  
 Kovalic, Joan, 14 January 1988  
 Linton, Ronald (Reuss only), 20 January 1988  
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 Rozsa, Gabe, 11 January 1988  
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 Stangeland, Arlan, 18 February 1988  
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# REPORT DOCUMENTATION PAGE

Form Approved  
OMB No. 0704-0188

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0188), Washington, DC 20503.

1. AGENCY USE ONLY (Leave blank)

2. REPORT DATE

October 1991

3. REPORT TYPE AND DATES COVERED

4. TITLE AND SUBTITLE

Reshaping National Water Politics: The Emergence of the Water Resources Development Act of 1986

5. FUNDING NUMBERS

6. AUTHOR(S)

Martin Reuss

7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)

U.S. Army Corps of Engineers, Headquarters  
Office of History  
20 Massachusetts Avenue, N.W.  
Washington, DC 20314-1000

8. PERFORMING ORGANIZATION  
REPORT NUMBER

9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)

U.S. Army Corps of Engineers  
Institute for Water Resources  
7701 Telegraph Road- Casey Bldg.  
Ft. Belvoir, VA 22060-5586

10. SPONSORING/MONITORING  
AGENCY REPORT NUMBER

IWR Policy Study-91-PS-1

11. SUPPLEMENTARY NOTES

12a. DISTRIBUTION/AVAILABILITY STATEMENT

Unclassified/Unlimited

12b. DISTRIBUTION CODE

13. ABSTRACT (Maximum 200 words)

While focusing on the legislative evolution of one act, albeit an act of potentially substantial importance to the U.S. Army Corps of Engineers, the history provides an overview of the development of Federal water resources policy. It also helps define the many constituencies, political concerns, and bureaucratic activities that determine the Federal role in water management. The work was done for the Army Corps of Engineers' Institute for Water Resources, which oversaw the project.

14. SUBJECT TERMS Federal role in water resources management, scientific management, congressional prerogatives, Federal domination, regional planning, changing values, user fee and cost recovery, coalition & compromises and sharing the burden

15. NUMBER OF PAGES

223

16. PRICE CODE

17. SECURITY CLASSIFICATION  
OF REPORT

Unclassified

18. SECURITY CLASSIFICATION  
OF THIS PAGE

Unclassified

19. SECURITY CLASSIFICATION  
OF ABSTRACT

Unclassified

20. LIMITATION OF ABSTRACT

Unlimited